

**SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JERRY M., et. al.,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, et. al.,

Defendants

C.A. No. 1519-85 (IFP)

FORTY-FIFTH REPORT OF THE MONITOR

April 1, 2001 – June 30, 2001

**Michael K. Lewis
Monitor**

**Virginia F. Crisman
Assistant Monitor**

TABLE OF CONTENTS

INTRODUCTION	1
I. POPULATION AND FACILITIES	2
II. COMPLIANCE	9
III. STAFF DISCIPLINE AND TRAINING	13
IV. INSTITUTIONAL PROGRAMS	17
A. Mission	17
B. Diagnostic Services for All Youth	20
1. Diagnostic Procedures	20
2. Diagnostic Unit	22
3. Initial Assessment	24
4. Diagnostic Package	24
5. Diagnostic Staff	27
C. Cottage Life Services	28
1. Individual Service Plan (ISP)	29
2. The Team	30
3. Team Leaders	33
D. Recreation	36
E. Mental Health Services	37

F. Aftercare for Committed Youth	41
G. Recordkeeping	45
H. Educational and Vocational Programming	46
V. DISCIPLINE	51
VI. RESTRAINTS	56
VII. ENVIRONMENTAL HEALTH	58
VIII. MEDICAL SERVICES	65
IX. VISITING, PHONE CALLS, ATTORNEY ACCESS, HOME VISITS	68
X. STUDENT HANDBOOKS	70

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INTRODUCTION

For yet another quarter, defendants appear tantalizingly close to a major breakthrough in moving towards compliance. In the final analysis, however, implementation of new policies and procedures remains a slow, pain-staking process. For example, while defendants have made major strides in developing Temporary and Individual Service plans for youth confined at Oak Hill, there is no indication that the new plans have made any significant difference in the services and supervision being provided to youth. Clearly, even with the best of intentions, institutional change is arduous work.

The parties continue to disagree regarding defendants' progress towards compliance with the creation of a comprehensive continuum of care for youth committed to defendants' care. By the end of the quarter they had reached an agreement in principle on a method of determining if defendants remain in noncompliance and, if so, a process for developing the most efficient plan for achieving compliance. The parties have encountered some difficulties in reducing their agreement in principle to a practical, implementable plan.

This report, as with many previous ones, identifies three chronic problems facing anyone attempting to comply with the consent decree in this case: (1) a physical plant which appears in some respects to have outlived its usefulness, (2) the difficulty of attracting, training and retaining qualified staff, and (3) achieving a greater level coordination among the various agencies in the District with some responsibility for the youth who move through defendants' care.

COMPLIANCE

I. POPULATION AND FACILITIES (Consent Decree in Italics)

A. General Principles

1. The parties recognize and acknowledge the right of children to be housed and provided services in the least restrictive setting consistent with the protection of the public, the youth's individual needs and with applicable court rules, statutory and constitutional provisions.

2. The parties recognize the right of a child not to be confined in any District of Columbia secure juvenile facility if that child is capable of functioning safely by himself or with the responsible assistance of others, without serious danger to himself or others, in a community-based program.

3. The parties recognize and acknowledge that it is in the best interest of children to remain in secure pretrial detention for as short a time as possible but not to exceed any period longer than (30) days or, in the case of a pre-trial shelter house placement, any period longer than (45) days. The parties further recognize that it is not in any party's interest for more detention slots to be created solely because of pretrial detention periods exceeding these periods; the parties further recognize that the presence of children in pretrial detention for periods longer than that set forth above because of delays in court proceedings, a factor which, in many cases, is beyond the defendants' control, creates a need for a greater number of detention slots, including in the community, than that which the defendants should be required to provide.

B. The plaintiffs and defendants agree that an assessment and study of the juvenile population in the existing YSA juvenile facilities will be done in order to determine an appropriate configuration and design for the confinement of children in the custody of YSA. The parties further agree that the juvenile population confined to secure beds in the District should be reduced to the lowest number possible pursuant to those general principles set forth in Section A above. The defendants are committed to and shall take all reasonable action within their authority to reduce the population of the secure facilities to the lowest number possible. In order to determine the appropriate number of juveniles in need of secure confinement in the District and to develop a system for appropriate care, services, and placement of securely confined juveniles in YSA custody, the following mechanism shall be implemented:

1. A panel of three experts, selected as follows by the parties, shall be convened as soon as possible from the date of the signing of this Decree by the parties. Plaintiffs and defendants each shall select one member of the panel and the plaintiffs and defendants shall agree upon the third member. The following persons have been designated to constitute this panel: Paul DeMuro (designated by the plaintiffs); _____ (designated by the defendants); and Margaret Beyer (mutually selected by plaintiffs and defendants). Jerome Miller shall be a non-voting consultant to the panel, and will be compensated for his services out of the

panel's budget. If for some reason a panel member cannot continue to serve in this capacity, the successor panel member shall be selected in the same manner as his/her predecessor. If, after two weeks from receiving notice that the mutually selected panel member intends to resign, the parties can not agree on a successor for that member, then the two remaining panel members shall select the third member of the panel within five days. If at the end of this period, the two panel members can not agree upon that member, then the matter is considered a substantial dispute to be submitted to the monitor for resolution.

2. *In accordance with the time frames set forth in Section I(B)(3), the panel shall:*

a) determine the number of children that the District of Columbia may confine in secure facilities in accordance with those principles set forth in Section A. above. This determination shall be based upon the panel's assessment of the current population within YSA custody, including in the secure facilities; discussions with their consultants, if necessary; information and data about the D.C. juvenile justice process; interviews with pertinent D.C. Government employees, with DHS/YSA staff, including those persons whom the parties may suggest, with youth in YSA custody, with the Public Defender Service, and the Juvenile Branch, Corporation Counsel, and with representatives of the Superior Court Family Trial Lawyers Association; and any other documents and sources deemed appropriate by the panel. The panel shall have access to all relevant records and files and access to all DHS/YSA facilities and staff; and access to D.C. Superior Court officials and staff, as available.

b) prepare a specific comprehensive plan for the design, development, and implementation of community-based programming and alternatives with specific objectives and time tables in accordance with the principles set forth in Section A above. The continuum of alternatives to facility confinement shall include but not necessarily be limited to group homes, shelter houses, foster care, specialized placements, family support services, home detention services, day treatment programs, and any needed residential construction of a non-secure nature (not to exceed a designated number of confinement slots per facility as determined by the panel), such as pre-release housing or therapeutic unit housing;

Order I, Paragraph 35, No date at this time. Parties continue to discuss these issues.

Finding: No Finding.

The Consent Decree requires a comprehensive plan for the design, development and implementation of community-based programming and alternatives. Sections B-2 (b) and (c) authorize a continuum of alternatives in the community, with standards and ongoing review. During this last quarter, YSA delivered community based services through new contracts with providers in the District for: after school enrichment, home based counseling and support services, intensive supervision, mentoring and substance abuse programs. YSA reports monthly on the number of youth participating in these services: ___ in April; 60 in May; ___ In June.

YSA has a grant from the Department of Justice to focus on intensive aftercare for youth

upon their release to the community. The purpose of this grant is to provide extra guidance and mentoring to youth when they return to their neighborhoods. Wards 7 and 8, in which 60% of the District's children live and from which almost half the children committed to YSA come, were selected as the sites for this community based grant.

In addition, through the auspices of a grant from the U.S. Department of Justice's Bureau of Justice Assistance, YSA is partnering with the Community Trust Neighborhood Initiative to prepare selected youth at Oak Hill for their next placement, either back to the community or to a residential placement. Implementation of the "Total Life Changes" program awaits release of \$150, 000 in grant funds.

During this quarter, the parties continued to meet regularly to discuss implementation of this provision including the specific community services required in Memorandum Order B. (J. Urbina, May 20, 1998). Plaintiffs have raised questions about whether the recent YSA contract awards referred to above, comply with Order B requirements. In late June, the parties agreed in principle that an expert would be hired to review YSA's current community-based programming and any future plans to assess compliance with the Consent Decree and Memorandum Order B. The details of this agreement had not been finalized by the end of the quarter.

c) establish standards and procedures as well as a mechanism for the ongoing review and community placement of all detained and committed children confined in YSA custody. At a minimum, such children shall be reviewed by defendants every 30 days (unless a different time frame is otherwise determined by the panel), to assess whether children are being confined in the most appropriate and least restrictive setting.

3. Within 3 months of the provisional approval of this Decree by the Court, the panel shall compile the findings and plans required under Section B(2) above, in a draft plan to be submitted to the parties, who, within twenty-five (25) days, shall submit their views to the panel. Within twelve (12) days, the panel, after review and due consideration of the parties' view, may modify the findings and the plan and shall submit this draft plan to the parties. The parties then shall have ten (10) days to submit any further views to the panel, which must within ten (10) days review and consider these further comments. At the end of this ten (10) day review, the panel shall then submit its final plan to the Court. Unless objections to the plan by either party are submitted to the Court within twelve (12) days, the plan shall be reviewed and, upon approval by the Court, shall be incorporated herein by reference. In the event of objections, the Court may hold a hearing and resolve the matter pursuant to the principles in Section A above. The parties will not seek a stay of, or appeal from, those portions of the order affirming the panel's plan except that neither party waives the right, if any exists, to seek a stay of or appeal from those portions of the order which modify the final plan submitted to the Court by the panel. In the event of such appeal, the parties agree that no portion of the Decree itself may be challenged. This paragraph is not intended to impinge upon the court's prerogative to order youth into secure confinement.

4. *By December 1, 1987, (unless the panel determines that a different time frame is appropriate): i) the number of children, who pursuant to 1(B) (2) (a) the District of Columbia may confine in secure facilities, will not exceed said number above; ii) the system of community based alternatives pursuant to I (B) (2) (b) shall be established and utilized. Within six (6) months of the provisional approval of this Decree by the Court, the ongoing review pursuant to I (B) (2) (c) to be devised by the panel, shall be implemented. This paragraph is not intended to impinge upon the court's prerogative to order youth into secure confinement.*

5. *The panel shall be maintained for 24 months from the time of the submission of its plan to the Court. The panel shall provide recommendations to the defendants to accomplish full implementation of the Court approved plan and shall also monitor the progress of defendants' compliance by submitting semiannual reports to the parties. Once the panel is disbanded, either party herein may thereafter request that the panel be reconvened to reassess whether a modification of the plan approved by the Court as to the number of children who the District of Columbia may confine in secure facilities should be revised following the procedures set forth in Section I (B) (3) above. In this regard, the panel shall submit a report to the parties, and thereafter the Court, following the procedures set forth in Section I (B) (3) above.*

6. *The panel may utilize the services of personnel with expertise in the District government where it deems it appropriate. The District of Columbia shall compensate the panel for reasonable costs and fees for the performance of the panel's functions. The panel shall, after consultation with counsel for the parties, propose its budget. If there are no objections to the budget, or if objections are resolved within ten (10) days, the budget shall be accepted and incorporated herein. If the panel and the parties are unable to resolve a dispute concerning the budget, such dispute shall be submitted to the monitor. If the matter still remains unresolved, the issue shall be submitted to the Court.*

Findings: Compliance (43rd Report).

These provisions spawned four reports by two Jerry M. Panels, dated March 11, 1987; Dec. 30, 1988; July 21, 1989; and Aug. 27, 1990. The Panels were to determine an appropriate configuration and design for the confinement of children in YSA custody and determine the number of children to be confined in secure facilities which was implemented in Order D. The Reports and Court Orders A-E, I and J address many of these provisions. See also, *District of Columbia v. Jerry M.*, 571 A.2d 178 (D.C. 1990).

7. *YSA on a monthly basis shall review the status of all detained or committed children in YSA custody. Where a child needs less secure confinement, YSA shall make all reasonable and appropriate adjustments to the system pursuant to the principles set forth in 1(A) above (including reassignment of children by YSA to non-secure custody, and notifying and requesting Corporation Counsel, Juvenile Branch, and appropriate defense counsel for youth in YSA custody to file motions with pertinent judges to transfer to less secure settings, to lift restrictions, and to modify the level of detention or commitment as to specific youth).*

Accordingly, YSA shall have available at all times a priority listing revised on a monthly basis of at least 20 securely detained and 20 securely committed children who are closest to release or most appropriate for being transferred out of secure confinement. It shall also have a priority listing of individuals in alternative placements whose placements may be modified. This provision shall be effective no later than February 1, 1987. In the interim, YSA shall make reasonable efforts to identify youth who need less secure confinement and, as to these youth, it shall take steps to ensure appropriate placements according to the principles set forth in I A above.

Accordingly, YSA shall have available at times a priority listing revised on a monthly basis of at least 20 securely detained and 20 securely committed children who are closest to release or most appropriate for being transferred out of secure confinement. It shall also have a priority listing of individuals in alternative placements whose placements may be modified. This provision shall be effective no later than February 1, 1987. In the interim, YSA shall make reasonable efforts to identify youth who need less secure confinement and, as to these youth, it shall take steps to ensure appropriate placements according to the principles set forth in I A above.

**Order I, Paragraph 35, No date at this time. Parties Continue to discuss these issues.
Findings: No Finding.**

YSA continues work on a newly-implemented computerized case management system referred to as "JIM"(Juvenile Information Management) to track a youth from the time he enters the system through his release from supervision. One of the goals of implementing JIM is to enable staff to produce priority listings, revised on a daily basis for all of the detained and committed youth closest to release or for transfer out of confinement, which comply with the requirements of this section of the Consent Decree. The system cannot yet generate a list of all children under YSA care along with their placements and programs which would enable immediate access to a list of youth most appropriate for being transferred out of secure confinement.

Social workers assigned to YSA's Bureau of Court and Community Services (BCCS) are responsible for tracking committed youth and updating JIM. Each social worker is responsible for tracking and coordinating services for a number of youth for the duration of their relationship with YSA, and for documenting this information in the youth's case file and JIM. Neither the case files or JIM records routinely contain current information for the majority of youth committed to YSA prior to March 1, 2001. Files for youth committed after March 1, 2001 contain more accurate and current information than do files for youth committed prior to that date. While some progress is evident, records do not yet assure that the reviews contemplated in this provision for the youth closest to release would be accurate.

8. *YSA shall provide to the Corporation Counsel, Juvenile Branch, and to the committing and detaining judges in Superior Court for the District of Columbia, on a daily basis,*

a count of the children in YSA custody including a breakdown of the population in terms of the respective placements (secure and non-secure), reflecting how the population relates to the capacity of the secure facilities as configured by the panel pursuant to Section I (B).

Finding: Compliance (43rd Report).

YSA remains in compliance with this provision with which it has complied for virtually the entire life of the Consent Decree.

9. *In the event that the daily population has reached 95% of the number of the children who the District of Columbia may confine in secure facilities, according Section I (B) (2) (a), the following action shall be taken:*

(a) *The Youth Services Administration shall advise the monitor, plaintiffs' counsel, the Chief Judge of the Superior Court of the District of Columbia, the corporation Counsel, Juvenile Branch, the Presiding Judge of the Family Division and the pertinent committing or detaining judges that the population will exceed 95% of the number of the children who the District of Columbia may confine in secure facilities if a court orders that a child be securely confined;*

Finding: Compliance (43rd Report).

YSA is in compliance with this provision.

(b) *Within forty-eight (48) hours the Youth Service Administration shall further make all reasonable and appropriate adjustments pursuant to the principles as set forth in I(A) above (including reassignment of children by YSA to secure custody, and notifying and requesting that Corporation Counsel, juvenile Branch, and appropriate defense counsel for youths in YSA custody to file motions with pertinent judges to transfer to less secure settings, to lift restrictions and to file motions to modify the level of detention or commitment or restrictions as to specific youths consistent with the principles set forth in I(A) above, etc), in order that the number of children that the District may confine in secure facilities according to the plan will not be exceeded. Accordingly, YSA shall have available at all times a priority listing revised on a monthly basis of at least 20 eligible securely detained and 20 eligible securely committed children who are closest to release or most appropriate for being transferred out of secure confinement; it shall also have a priority listing of individuals in alternative placements whose placements can be modified. -The purpose of these priority listings is to enable and ensure that the defendants comply with I(B)(2) above.*

Finding: Compliance (43rd Report).

YSA administrators have managed population pressures sufficiently well that the provisions of subparagraph (b) above regarding "reasonable and appropriate adjustments" have

not been tested in recent memory. The average number of detained youth at Oak Hill based on population summaries reported at the beginning of April, May and June was 64. From April 16th through May 1 there were over 100 detained youth at Oak Hill with the numbers ranging from 103 to 110 youth. The average number of committed youth at the beginning of each of these three months was 54. During the second quarter of 2001, the number of youth at Oak Hill peaked with 174 male youth at Oak Hill on April 2 (105 detained, 65 committed, and 4 dual detained/committed male youth). The number of female youth reached a high with 18 on April 25 (15 detained, 2 committed and 1 dual status detained/committed). The average number of female youth on Unit 6 at the beginning of April, May and June was 12.

C. Oak Hill Annex will not be used for the housing of any additional youth beyond June 1, 1987, and Oak Hill Annex will not be used for the housing of any youth beyond December 1, 1987.

Finding: Compliance .

The institution is closed.

D. As of June 1, 1987, residents confined at Oak Hill Annex will be confined to single rooms with one child per room unless the panel's plan, as approved by the Court, recommends an increase in the number of secure beds greater than 266. If so, the plan shall include an implementation date for this paragraph.

Finding: Compliance.

The institution is closed.

E. The defendants agree not to build any additional secure juvenile beds until the panel's findings and plans developed under Section B (2) above are finally approved by the Court. This provision shall take effect immediately upon the approval of the Decree by the Mayor.

Finding: Compliance (43rd Report).

No new beds in secure facilities have been constructed during the life of the decree.

F. As of October 1, 1986, youth confined at the Receiving Home will be confined to single rooms with one child per room.

Finding: Compliance (43rd Report).

This provision is no longer applicable as the institution is closed.

G. *Residents confined at Oak Hill will be confined to single rooms with one child per room.*

Finding: Compliance (43rd Report).

Order Q imposes fines of \$1,000 per child per day for each child in excess of single room capacity at Oak Hill and directs the Monitor to use any such fines to benefit the class. The DC Children's Trust, administered by the Monitor, has disbursed approximately \$3,000,000 in fines levied in previous years. See also Orders C and E. No fines have been levied in the past three years.

H. *In the event of emergency conditions such as fire, flood or other events at a facility which render single rooms uninhabitable and therefore make compliance with I(D), (F) and/or (G) unachievable, defendants may temporarily suspend such provisions to the extent necessitated by the emergency. In that event, the defendants shall, within 24 hours of the occurrence of the emergency, notify plaintiffs' counsel and the monitor of the reasons necessitating the suspension of each provision, the duration of the suspension, and defendants' plan to reinstate said provisions as soon as possible. If plaintiffs' counsel believes these suspensions and/or durations are unjustified, then the suspension shall be considered a substantial dispute.*

Finding: Compliance (43rd Report).

II. COMPLIANCE

A. *The parties agree that Michael Lewis shall serve as the monitor of this Decree. The monitor shall take office as soon as possible but in no case later than August 1, 1986. The monitor shall not be subject to dismissal except upon agreement of the parties or by the Court upon motion of one of the parties and a showing of good cause. If the monitor resigns, is unable to serve, or is dismissed, a successor must be chosen by the parties. If the parties cannot agree within two weeks on a successor to the monitor, the parties shall each submit three names to the Court, which shall select a successor.*

B. *The monitor's duties are to observe, monitor, collect information, report as to his findings, and make recommendations concerning steps to be taken to achieve compliance. The monitor, shall consult with and coordinate his activities as outlined herein with the Mayor's Special Assistant, the Honorable John D. Fauntleroy, insofar as the monitoring of this Decree pertains to the general operations of the overall correctional system. The monitor shall not operate or manage YSA facilities and its programs, staffing and procedures. The monitor shall not make findings, observations, evaluations, assessments, recommendations, or reports regarding programs, staffing or adequacy of the alternatives to secure confinement; except, however he shall report whether defendants are in compliance with making available said alternatives as required by I (B) (3) and (4). The monitor may and should assist the parties to*

achieve compliance and, to this end, may confer with the parties, their counsel and their agents. The monitor shall, when necessary, seek access to D.C. Superior Court officials and shall have access to all DC. employees; to all appropriate staff and consultants; to all appropriate facilities; to all relevant records and files and confidential access to all children in YSA custody; and to other persons he deems appropriate. The monitor shall submit quarterly reports to the counsel for the parties. Of these quarterly reports, two semiannual reports shall be submitted to the Court. The reports shall detail whether or not defendants are in compliance with each provision of the Decree.

C. The monitor may utilize the services of expert consultants and shall utilize personnel with expertise in the District of Columbia where the monitor deems it appropriate. The District of Columbia shall compensate the monitor and his agents for reasonable costs and fees for the performance of their functions. In this regard, the monitor shall, after consultation with counsel for the parties, propose to the parties an annual budget. If there are no objections or the objections are resolved within 10 days, the budget shall be accepted and incorporated herein by reference. If the parties are unable to resolve a dispute concerning the budget, such dispute shall be submitted to the Court.

D. If either party believes that there is a substantial dispute concerning compliance, that party shall first make good faith and reasonable efforts to resolve the dispute utilizing the following procedure prior to seeking court intervention. This procedure shall not apply, however, in a situation threatening the life, health or safety of confined children, or if the monitor is unavailable or if the monitor declines to mediate the issue or fails to make written findings within fifteen days of the dispute, or other time limit as proposed by the monitor and accepted by both parties.

1. Counsel for the party shall raise in writing the issue with opposing counsel.
2. Within five (5) business days of notice of the issue so raised, counsel shall submit in writing to opposing counsel their response to these issues.
3. Either party may request, in writing, with a copy to opposing counsel, the monitor to mediate. If the monitor is unable to resolve the dispute through mediation within ten days or other specific time limit proposed by the monitor and accepted by both parties, he shall attempt to resolve the dispute by making within five business days written findings of facts and recommendations to the parties on how to achieve compliance.

E. If the monitor's recommendations are accepted by the parties, they shall be implemented by defendants. If the monitor's recommendations are not acceptable to one or both of the parties, either party may submit the controversy to the Court for de novo resolution. In that event, the monitors written findings of fact and recommendations may be introduced into evidence and the monitor may be called to testify as an expert witness, by either party or the Court.

F. If a court's order to place a child in confinement results in defendants' exceeding

the number of children that the District may confine in secure facilities established by the Decree, or a violation of Section I(D)(F) or (G), plaintiffs will not seek to hold the defendants in civil and/or criminal contempt of such provisions as long as defendants have taken all reasonable steps, employing their utmost diligence, to ensure substantial compliance with this Decree.

G. Plaintiffs will not seek to hold defendants in civil and/or criminal contempt of any provision herein as long as defendants have taken all reasonable steps, employing their utmost diligence, to ensure substantial compliance with said provision of the Decree.

H. The defendants and their successors in office and agents, employees or others who are providing services to or on behalf of YSA, related to juveniles placed in YSA custody, shall comply with the terms of this Decree.

I. This Decree was voluntarily and mutually agreed upon by the parties as a compromise settlement of disputes between the parties. The Decree and any plans subsequently developed and incorporated into this Decree do not constitute an admission by defendants of any allegations in plaintiffs' amended complaint or any papers filed by plaintiffs in this action. Any decision by the parties not to appeal as prescribed under II A 3 above merely represents the parties' willingness to resolve all disputes in an amicable fashion.

J. The parties, the monitor, panel and counsel for the parties, shall not disclose any information obtained in this case that may reveal the identity of a juvenile to persons who have no connection to this lawsuit. Said persons also shall not violate the applicable laws or regulations pertaining to privacy of juveniles and of personnel.

K. Counsel for plaintiffs shall have reasonable access to all plaintiffs, to their institutional files, and to the institution and staff at reasonable times and under reasonable circumstances. They shall have access to and receive copies of documents pertaining to the implementation of this Decree.

L. Three years after entry of this Decree, defendants may move the Court for the dissolution of the monitorship which plaintiffs will not oppose upon a showing by defendants of sustained and satisfactory implementation and substantial compliance in all areas of the Decree. In this regard, the monitor shall submit as part of his semiannual report to the Court, findings and conclusions whether defendants have been showing sustained and satisfactory implementation and substantial compliance in all areas of this Decree.

M. Only plaintiffs' counsel shall have standing to enforce this Decree.

N. By entering into this Decree, plaintiffs are not waiving any rights to pursue individual claims for declaratory, injunctive, and/or monetary relief. The only claims against defendants settled herein are claims for injunctive relief as detailed in the amended complaint

filed in this case and which are applicable to more than the individual circumstances of a particular plaintiff class member.

0. There shall be semiannual meetings, convened by the Mayor or his designee, of the pertinent officials in the juvenile justice process, including the monitor of this Decree and the panel established by Section I(B)(l); the parties to this Decree and their counsel; the Chief of the Juvenile Branch of the Corporation Counsel's Office or his designee; the Director of the Public Defender Service, or her designee; and representatives from the Family Trial Lawyers Association to discuss whether the juvenile justice system is operating consistent with the principles set forth in Section I(A). The Mayor shall invite the Chief Judge of the D.C. Superior Court or his designee; the Presiding Judge of the Family Division of the D.C. Superior Court or his designee; and the Director of Social Services of the D.C. Superior Court or his designee.

Order I, Paragraph 4, June 30, 2001.

Finding: Compliance.

On June 4, 2001, the Mayor convened the first §II. O. meeting in the life of the Consent Decree. To this meeting, the Mayor invited selected "stakeholders" to "exchange information about the District's juvenile justice system." The purpose of the meeting was to update invited participants on "recent and planned efforts to improve the juvenile justice system." The parties designated in Section O of the Consent Decree were among those invited to attend the meeting. Presenters focused on the mission of their respective organizations and the continuing problem of fragmentation of services provided to at risk youth and families in the District.

Court Social Services staff described the process for youth's initial contact with the judicial system and the probation process along with programs available to youth through Court Social Services. YSA staff presented an overview of the "Balance and Restorative Justice" philosophy being developed which focuses on youth competency and accountability and community safety. YSA staff announced that the agency has issued contracts for community services including drug abuse treatment, after-school care and intensive supervision. YSA staff also described the agency's newly introduced automated information system (JIM), an individualized case management protocol and agency plans to construct a new facility for securely detained youth as well as plans to improve the physical plant at Oak Hill. YSA also emphasized that youth services in the District of Columbia are fragmented and complicated by the fact that three separate agencies have jurisdiction over the needs of a youth depending on his/her status in the system: Child and Family Services (neglect or abuse); Court Social Services (pre-trial intake, probation); Youth Services Administration (pre-trial detained and committed youth found to "be involved" in delinquency.)

The Mayor's Blue Ribbon Commission described its preliminary findings that youth in the District are securely detained more frequently than in other jurisdictions and expressed concern for a lack of detention guidelines. The Commission announced that it was studying juvenile justice systems in other states and that members of the Commission had visited Texas,

Missouri, Utah, Pennsylvania, Delaware, Virginia, New York and Massachusetts.

The Mayor announced that this meeting would be the first of many and that he valued an open and frank discussion. He stated that he visited Oak Hill for the first time prior to the June 4 meeting. He stated that he was "dismayed" by the physical plant at Oak Hill and that "we must do better by these children." He said it was "clear that the system was not adequate" and he expected to take further action after the September Report of his Blue Ribbon Commission. He noted in closing that the impetus for the Commission came from his late friend Chuck Ruff urging the Mayor "to do the right thing" for children in the District of Columbia.

At the end of the meeting, members of the audience made three general comments: 1) input from families of youth should be included in the next meeting; 2) there are already adequate legal guidelines in place governing detaining youth. The issue is not guidelines but the lack of adequate community services in the District; and 3) concern that while D.C. Public Schools was invited to attend the meeting, it had not been invited to participate as a presenter.

P. Unless otherwise stated, the Decree shall take effect on August 1, 1986.

Q. Unless otherwise stated, the requirements of this Decree apply to the institutions covered by this Decree.

R. The Mayor of the District of Columbia and the District of Columbia Public Schools will take all reasonable steps, employing their utmost diligence, to seek funds sufficient to implement fully the provisions of this Decree.

Order I, Paragraph 36, June 30, 2001 (and each year thereafter as to DCPS Budget, and December 15 each year for YSA budget).

Finding: Compliance (43rd Report).

The Proposed YSA Budget for FY 2002 is \$40,173,343.00, with the equivalent of approximately 399 full-time employees. The proposed DCPS budget for Oak Hill Academy is \$3,237,335.00. In the past year, neither YSA or Oak Hill Academy has raised a lack of funding as a factor inhibiting full compliance with the Consent Decree.

S. It is clearly understood by the parties that the Court is not a party to this agreement, and that the duties, statutory or otherwise, owed by the parties to the Court with regard to persons in the juvenile justice system, are not abridged by this Decree.

III. STAFF DISCIPLINE AND TRAINING

A. With respect to newly hired staff, defendants shall comply with the Standards of the ACA for Juvenile Training Schools (2nd ed. 1983) pertaining to Training and Staff Development, Standards 2-9085 to 2-9099. As to current staff, defendants shall comply with said

standards by June 1, 1987. In the event that defendants believe that certain non-YSA personnel providing services to youth do not require such training, the YSA Administrator shall notify all counsel. If the plaintiffs' counsel disagree with the view of the Administrator, the matter shall be considered a substantial dispute.

Order I, Paragraph 37, September 30, 2001.

Finding: Partial Compliance.

Handle With Care and CPR and Suicide Prevention refresher courses are taught. YSA continues to review personnel records to monitor all required staff certification.

In the last two and a half years, the Monitor has continued to underscore the need to hire qualified supervisors and the need to train line staff. No major improvements are evident. Incident Reports and Project Hands Reports continue to suggest that a number of Youth Correctional Officers (YCOs) working at Oak Hill lack fundamental skills for working with troubled youth. Recent YCO recruits have received 40 hours of training (with 4 hours on adolescent behavior.) One primary current source for YCOs is the District's adult prison complex in Lorton, Virginia, which is being closed. YSA management has not yet hired qualified supervisory-level staff.¹

The ACA standards referenced above require written policies and procedures for the facility's employee training program to assure training is "organized, planned, and evaluated." YSA has no policy and procedure manual in compliance with this provision. YSA is in compliance with ACA Standard No. 2-9085, which requires a full-time staff person responsible for planning, implementing training program and coordinating with other employee programs. One of the two full-time staff assigned to implement YSA training also functions as a backup hearing officer for disciplinary proceedings. YSA staff and consultants conduct training in selected courses such as CPR, Handle with Care, and First Aid.

Standard No. 2-9086 requires that all training programs be conducted by qualified personnel. YSA is in compliance with this provision. YSA is not in compliance with Standard No. 2-9087 requiring an "Advisory Training Committee," including a representative from each department, to keep the Administrator advised of training and equipment needs where there is a

¹ In the Fall of 2000, YSA reported that 10 staff were trained as "trainers" under the auspices of the National Juvenile Detention Association. The April 2, 2001, Notice of Filing to the Court contained two job descriptions for supervisory YCOs. The June 25th Response to Plaintiffs' Motion stated that "YSA is continually recruiting for new youth correctional officers and has established additional Supervisory Correctional Officer positions that they are currently recruiting for." The current YSA administration, has made clear the importance it places on hiring qualified staff since shortly after assuming responsibility for managing the agency. YSA management acknowledges that it does not yet have in place the requisite strata of supervisors beneath senior managers.

full-time Training Director.

YSA is in partial compliance with Standard No. 2-9088 pursuant to which all new employees are to receive 40 hours of orientation and training prior to being independently assigned to a job. YSA is not in compliance with Standard No. 2-9089 pursuant to which clerical and non-contact employees are to receive orientation as they begin their employment with the agency.

YSA is not in compliance with Standards No. 2-9090 and 2-9091 pursuant to which all employees of the facility are required to have training prior to beginning a job assignment, the first year on the job and each year thereafter **"in the particular category and pertinent to their role in working with juveniles."** (Emphasis added). See also Summary of Orientation and Minimum Training Hours at page 22 of ACA Standards, 2nd ed. 1983.

YSA is not in compliance with Standard No. 2-9092, pursuant to which all new child care and supervisory staff receive an additional 120 hours of training during their first year of employment and 40 hours of training each subsequent year of employment which must cover at a minimum: security procedures, supervision of juveniles, use of force regulations, report writing, juvenile rules and regulations, rights and responsibilities of juveniles, fire and emergency procedures, key control, interpersonal relations, social/cultural lifestyles of the juvenile population, child growth and development, communication skills and first aid.

YSA is not in compliance with Standard No. 2-9093, requiring all part-time staff and volunteers to receive appropriate training. YSA's current practices are not in compliance with Standard No. 2-9094 requiring that personnel who work with youth who have been removed from the open population ("confined") receive specialized training. YSA is in compliance with Standard No. 2-9095 requiring training for managerial and administrative staff. YSA is in compliance with Standards No. 2-9097, 9098, 9099 which provide for space and equipment for training, compensation, staff coverage during training, and continuing opportunities for professional development .

B. Defendants shall take appropriate steps including disciplinary action against any staff who fail to comply with the requirements of this Decree consistent with written policies and procedures, and applicable D.C. personnel regulations, statutory requirements, and constitutional standards.

Order I, Paragraph 38, March 31, 2001.

Finding: Compliance.

During the year 2000, nineteen "corrective/adverse" actions were initiated to discipline staff. Since the last Report, the record indicates an increase in the number of cases referred for disciplinary action by YSA. Defendant's June 25th Response to Plaintiffs' Motion...states "In addition to taking disciplinary action, where appropriate, YSA provides ongoing staff training for

correctional officers utilizing the National Juvenile Detention Association curriculum." Defendants' Response, p. 19.

C. *As of January 1, 1987, all staff who have direct contact with youth as well as all medical personnel will be trained, in and will maintain valid and updated certification in cardiopulmonary resuscitation (CPR).*

Order I, Paragraph 39, March 31, 2001.

Finding: Compliance.

During the first quarter of 2001, YSA conducted a comprehensive review of staff CPR certifications and notified staff that anyone with a lapsed certification had until March 31, 2001 to update his/her certification. Approximately 65 staff with lapsed certifications attended CPR training in March. The Training Unit continues to review staff certifications and reports directly to the Administrator.

D. *As of January 1, 1987, Project Hands, consisting, at a minimum, of three full-time staff persons, will report in writing all allegations of staff violations of regulations applicable to youths, and shall investigate said allegations. It shall submit quarterly reports regarding the results of its investigations by staff person, type of allegation, and actions taken to the institutional superintendent, the YSA Administrator, and the CSS Commissioner.*

Order I: Not Applicable.

Finding: Partial Compliance.

Since November 2000, there has been one full time staff person at Oak Hill to investigate allegations. The Project Hands supervisor maintains an office in the District. Project Hands is required to initiate an investigation within 24 hours of an allegation of abuse and complete an investigative report within 10 days.²

During the second quarter of 2001, Project Hands conducted 11 investigations and 3 inquiries. In addition, there were also 3 allegations referred to Project Hands which had yet to be investigated. Project Hands completed 9 of the 11 investigations within the prescribed 10 day period. The 2 remaining investigations were not completed within the 10 day period and were still pending at the end of June. Of the 9 completed investigations, 5 were substantiated; 2 were

² Order P, p. 10 (J. Urbina, 1993) reviewed the requirements of this provision in the Consent Decree and expressly ordered the Defendants to maintain the then authorized level of three staff members, complete final reports within 10 days, deliver reports to plaintiffs and the Monitor and deliver reports of any remedial action taken in response to substantiated cases of abuse.

unsubstantiated; and 2 were inconclusive. Of the 5 substantiated cases, 1 involved assault by a YCO on a youth; 2 found an improper use of force used by a YCO; 1 substantiated abusive conduct and 1 found unfair treatment by YCOs.

Hands staff continues to raise questions about the lack of a published policy or procedure with regard to the use of administrative segregation on Unit 10 A.

E. Sufficient numbers of trained and qualified cottage life staff shall be employed in each of the facilities to supervise youth at all times. The ratio of cottage life staff to children shall be 1:10 at a minimum at all times that children are in the cottage or unit, except during normal sleeping hours. This ratio shall be fully complied with by January 1, 1988. As of the date of the signing of the Decree, defendants will recruit 20 new cottage life staff, all of whom will be employed by January 1, 1987. Staff may work overtime only as provided for pursuant to DRS Transmittal Letter No. 291, dated July 10, 1986.

Order I, Paragraph 40, September 30, 2001.

Finding: Partial Compliance.

As noted above, the Incident Reports and Project Hands Reports indicate the continuing lack of skilled supervision of youth by cottage staff. Direct observation indicates that the staff ratio of 1:10 is not always complied with during the day shifts. For example, during shift changes there are times when only one staff person remains on duty; YCOs often leave their units for varying reasons, leaving units understaffed for a period of time.³

IV. INSTITUTIONAL PROGRAMS FOR YOUTH IN YSA INSTITUTIONS

A. Mission

1. As to committed youth, the mission of institution programs is habilitation. Youth have many educational, emotional, vocational, familial, recreational and social needs. The experience of success is central to the habilitation process. Youth must be offered opportunities to be competent, have a sense of self-worth, and be accepted by adults and peers. Staff in all parts of the institution must work to create a positive milieu in which youth succeed and form constructive relationships with adult [sic] and peers.

³ YCOs and their union continue to express concern with the staffing of a single YCO on a Unit after youth are confined in their rooms for the night. Incident reports confirm that problems have occurred when only one YCO is on duty. YSA reported that the abscondance of 7 youth at the end of May occurred during a period of time when Unit 8A was understaffed. YSA terminated 2 YCOs and the supervisor on duty. Defendants' Response, p. 18.

Order I, Paragraph 41: February 28, 2001 for a proposed plan, including measurable milestones to achieve compliance by September 30, 2001.

Finding: Compliance with Order I.

YSA submitted its proposed plan to the Court on February 27, 2001. See The Oak Hill Program Milestone Chart, Executive Summary & Program Overview. By the end of March, the parties had agreed that the draft Oak Hill Program needed extensive revision. By the end of June, YSA had developed a new program and drafted the "Stride Program Manual." Copies are to be provided to the parties and the Monitor for review and comment. Training of staff and teachers at Oak Hill Academy is scheduled for mid July.

2. *Youth are detained in YSA secure facilities by the court. The goals of YSA for the securely detained are (1) to provide a humane environment in which short-term educational, recreational and emotional needs are met; (2) to prepare recommendations on individual needs for disposition; and (3) to maintain a child and to prevent his deterioration during his period of detention. The secure detention program must be short-term and focused on preparing the youth for a more positive--next step in his/her life, either after dismissal, disposition of probation, or a disposition of commitment.*

Order I, Paragraph 42, February 28, 2001, for the correction of any serious sanitary conditions. **March 31, 2001** for the submission of a housekeeping plan and plans for repair of the physical plant.

Finding: Compliance with Order I; Partial Compliance with Subsection (3).

Compliance with the Order I directives to correct the more serious sanitary conditions and compliance with the plans for repair of the physical plant. Compliance as to the submission of a housekeeping plan filed with the Court in March. Cottage staff and youth are now responsible for cleaning their units, with weekly inspections. Performance varies among cottages. Staff accountability is still lacking for all shifts. YSA issued an "Updated" Preventive Maintenance Program, June, 2001. Compliance as to humane physical environment.

Partial compliance with respect to short term educational, recreational and emotional needs; partial compliance with the preparation of recommendations on individual needs for disposition; and partial compliance with maintaining and preventing a child's deterioration during his period of detention. Detained youth are housed in Units 7A, 7B, 9A, 10A or 10B. On Unit 6 where female youth are housed, detained females are still commingled with committed females. Female PINS (persons in need of supervision) are commingled with the other female wards during recreation at Oak Hill and in transport to school and the gym. Direct observation indicates that none of the units provide detained youth (including PINS) with the comprehensive treatment program envisioned in the Consent Decree to address the emotional, educational, recreational or psychological needs of detained youth.

3. *After 45 days of detention, each youth will receive services and programs consistent with the goals set forth above for committed youth in accord with his Individual Services Plan.*

Order I, Paragraph 43, March 31, 2001.

Finding: Partial Compliance.

No substantial changes in services to detained youth have taken place since the last Report. Short-term goals and strategies and attendant services for detained youth in general continue to fall below those envisioned in the Consent Decree. Detained youth at Oak Hill are there pending an adjudication of their case, awaiting disposition, awaiting placement in residential placement outside the District, or transfer to a shelter house or group home. YSA has agreed that all detained youth will have an individual service plan (ISP) in place on the 15th day after admission. See Defendants' June 25 Response, p. 5. YSA also plans to provide youth detained for 45 days or more with services consistent with the goals specified for committed youth. A review of the files for Units 7A and 7B indicate that no treatment plan, mental health or educational programs are designed or in place for detained youth to include relatively short term goals which could be completed by youth in increments while detained at Oak Hill. Files indicate that some youth have been at Oak Hill in secure detention on the Orientation Unit (7B) beyond the prescribed 10-day program. YSA is aware of these deficiencies and plans to begin to "address issues identified in the diagnostic process by the 15th day following admission." Defendants' Response, p. 3.

A review of files for detained youth as of June 15 indicated the following:

- TSPs and ISPs are in the youths' files in Units 7A and 7B, respectively;
- The majority of securely detained youth in 7B had been housed in the Orientation Unit for a minimum of 3 weeks;
- Services identified in ISPs are not provided to youth living on 7B beyond the 10-day orientation program;
- Youth on 7B who have been adjudicated and become committed to YSA remain on the Unit with detained youth until space opens up on units devoted to committed youth (8A, 8B, MOD I or SAFE).

Findings with respect to newly detained youth housed first in 7A:

- Educational testing occurs within first 3 days of admission;
- YCOs rarely have background information about a newly admitted child upon admission;
- A review of court orders indicates that many youth are taken into custody testing positive for one or more of the following substances: PCP, cocaine, marijuana and alcohol. YSA does not provide any individualized programming to address a youth's drug use or possible drug addiction during this initial period;
- Court Orders often require YSA to arrange for psychiatric/ psychological tests or special education testing by a certain time, often before the next scheduled Court

appearance. Records reviewed did not routinely make reference to the action taken to schedule these tests in order to comply with the relevant Court Order.

—Unit 7 is a Diagnostic Unit. Records indicate that youth sometimes remain on Unit 7 from 2 to 6 weeks beyond the requisite 2 week diagnostic period. Treatment services are not routinely available until youth are moved to another unit at Oak Hill or into a community placement.

B. Diagnostic Services for All Youth in YSA Institutions

1. Diagnostic Procedures

As of February 1, 1987, classification procedures will be developed and implemented to:

(a) identify the least restrictive alternative placement to meet the needs of each youth and to protect the public, including placement in community-based programs as permitted by the court and consistent with the principles in I(A) (1) and (2) above.

Order I, Paragraph 44 June 30, 2001.

Finding: Partial Compliance.

See discussion above with respect to findings in this Report for detained children.

Most files at BCCS for committed youth contain the disposition report to the Court recommending a placement for the youth. The JIM system can generate a list of all youth in the system.

(b) specify an initial screening and diagnostic process;

Order I, Paragraph 45, June 30, 2001.

Finding: Partial Compliance.

Units 7A and 7B are designated as the Units for orientation, initial screening and diagnostic tests. As previously reported in the Monitor's 43rd Report, YSA policy requires new arrivals at Oak Hill to be assigned to Unit 7A for a three day orientation and preparation of a Temporary Service Plan. This is now being done with regularity. Initial screening includes medical, dental and psychological screenings, and educational assessments. On the fourth day, residents are to be transferred to Unit 7B for 10 days of continued orientation and more in depth self assessments for education and vocational training at Oak Hill Academy. YSA and Mental Health are in the process of developing the diagnostic program.

At the end of the 14 day diagnostic period, all children are to be assigned to a permanent housing unit. As noted above, youth are remaining on Unit 7B for extended periods well beyond

10 days. Detained youth at Oak Hill are generally separated from committed youth after the diagnostic orientation period, for purposes of housing, education and other institutional programs. With the increase in the number of detained youth, YSA has assigned detained youth to Units 8B, 9A and 10B in addition to Units 7A and 7B.

(c) *define how youth will be classified based on social, psychological, and behavioral needs and assigned to housing units according to treatment needs and security considerations.*

Order I, Paragraph 46, March 31, 2001, with regard to classification; September 30, 2001, with respect to housing.

Finding: Compliance with Order I.

A review of individual youth files indicate that a formal risk assessment is being administered as part of the intake interview with youth before they arrive at Oak Hill. Oak Hill housing units do not yet provide differentiated programs for youth – other than programs such as MOD I (boot camp), or the Substance Abuse Free Enrichment Program (SAFE) on Unit 9B. Criteria based on treatment needs or security considerations to match a youth's needs with a housing assignment are not documented in youths' files.

(d) *enable the facility to move youth to the next least restrictive setting when youth are ready to move, as permitted by the court and consistent with principles in I (A) (1) and (2) above.*

Order I, Paragraph 47, September, 30, 2001

Finding: No Finding.

The governing ACA standards require written policies and procedures for "Records, Classification, Transfer and Release" of a juvenile. The 43rd Report, issued prior to the January 2001 Schedule for Compliance in Order I, indicated that YSA is in partial compliance with ACA Standards 2-9381 through 2-9386 (orientation and diagnostic procedures) Standard No. 2-9396 (Monthly reviews of a youth's level of restriction which document the review process and recommendations); and Standard No. 2-9397 (transfer of a youth to a mental institution). The Report contained findings that YSA is non-compliant with regards to the following ACA standards:

Standard No. 2-9387, Classification Manual for staff (reference manual documenting responsibilities and instruction regarding the youths' orientation experience);

Standard No. 2-9388, Written Plan for classifying juveniles and assessing risk to assure youth's individual needs are addressed at the detention center, in appropriate programs and preparation for subsequent release;

Standard No. 2-9390, Policy and Procedure for youth with special needs;

Standard No. 2-9391, Plan for Monthly status review of youth and documentation of each

review;

Standard No. 2-9392, Written Plan for criteria and procedures relating to decisions affecting the services to be provided a child, and appropriate level of restriction;

Standard No. 2-9393, Appeal Process. Juveniles to have the right to seek review of their progress and level of restriction, with a right to appeal staff decisions to the Administrator;⁴

Standard No. 2-9398, Written Policy and procedure to prepare youth for release, initiated upon admission.

Standards 2-9394, requiring a written plan for transferring juveniles from minimum to maximum security facilities which is reviewed annually, and 2-9395, requiring a written plan establishing the criteria for decisions to send juveniles to secure facilities, to assure uniformity in staff decisions, are not applicable to the current structure of YSA.

2. Diagnostic Unit

As of January 1, 1987, there will be a unit designated for diagnostic purposes.

Finding: Compliance (43rd Report).

As discussed above, Units 7A and 7B have been designated for orientation and initial diagnostic assessments.

As of February 1, 1987, written procedures will be developed and implemented to:

(a) limit the stay of youth on the diagnostic unit or within the diagnostic phase;

Order I, Paragraph 48, June 30, 2001.

Finding: Partial Compliance.

As noted above, Units 7A and 7B serve as orientation and diagnostic units although no written procedures are yet in place.

(b) prohibit the use of isolation during the diagnostic phase, except in individualized cases for medical/psychiatric or disciplinary reasons.

Order I, Paragraph 49, March 31, 2001.

⁴ On June 25, the Juvenile Blue Ribbon Commission announced that it had under consideration a system used in several states through which youth have the right to initiate a review of their restrictive level.

Finding: Partial Compliance.

The 44th Report found that in March, there were instances of lockdowns on Units 7A and 7B which extended beyond the time needed for transition of staff during a change of shift. Lockdowns are a form of isolation. Direct observation indicates that this practice continues on all units depending upon staff on duty and routinely during visiting hours on Wednesdays and Sundays and during Wednesday afternoon Treatment Team meetings .

Newly admitted children in need of protection from the population at large are sent to Unit 10B for their diagnostic phase; and to Unit 10A, the disciplinary unit if 10B is crowded. In addition, YSA is not equipped to handle very young children at Oak Hill. In the past, when a young child has been Court ordered to Oak Hill, the child has been housed on Unit 10B and commingled with older youth. On at least two recent occasions, school and diagnostic professionals were not routinely notified of the fact that a child under the age of 11 was at Oak Hill.

(c) *ensure that youth in the diagnostic unit have a structured daily program;*

Order I, Paragraph 50: March 31, 2001 for interim schedule; September 30 with respect to OHYC program.

Finding: Partial Compliance as to March 31, 2001 requirement.

A structured program is posted prominently in Unit 7A. Direct observation indicates that the published schedules are not adhered to in practice. Youth on Units 7A and 7B lack a structured daily program and tend to spend inordinate amounts of time watching TV and movies. Youth on Unit 7B were locked down at approximately 2:45 p.m. for the 3:00 p.m. shift change, while youth on Unit 7A were locked down at 2:00 p.m. There appears to have been no significant improvement since the Monitor last reported on this issue in the 44th Report. See pp 22-23, 43rd Report. Cf. Attachment 10, Diagnostic Unit Interim Schedule in March Court filing. See Defendants' Response, p. 8, "Defendants will continue to monitor, adjust and train as needed to ensure that youth in the diagnostic unit have a structured daily program...YSA will also look to Project Hands referrals to assist in monitoring staff compliance." Defendants' Response, p. 16.

(d) *ensure that youth wear appropriate daytime clothing on the diagnostic unit.*

(Order I, Not Included).

Finding: Compliance (change from " Partial Compliance" in 44th Report).

All youth are to be issued standard clothing. In the last six months, the standard has become sweat pants and tee shirts with varying kinds of shoes. Following the findings in the 44th Report, that on several occasions youth on Units 7A and 7B lacked enough socks,

underwear and toothbrushes, the Deputy Administrator established new procedures for replenishing supplies. See also, "YSA is developing a computerized inventory control system" to address these issues. Defendants' Response, p. 9.

3. Initial Assessment

Beginning no later than February 1, 1987, based on initial screening, each newly admitted youth will have a temporary service plan developed within three days of admission. This plan must provide for an educational, recreational and counseling program on the diagnostic unit for each youth during the two-week diagnostic phase, including medical and other services as needed.

Order I, Paragraph 51, March 31, 2001.

Finding: Partial Compliance.

A review of youth's files at Oak Hill, indicate that Temporary Service Plans are being routinely prepared for all youth upon their arrival at the institution.⁵ A June file review revealed that rote recitations predominate in the TSPs. The TSPs still did not address individual needs based on information about a youth available to the person preparing the TSP. For example, the TSPs include grade level of readings, spelling and math, without reference to a program or services aimed at handling these or other issues during the 2-week diagnostic phase.

4. Diagnostic Package

As to youth residing at the facilities prior to February 1, 1987 defendants will make their best efforts to comply with IV (B) (4).

Finding: No longer applicable.

(a) Beginning no later than February 1, 1987, in order to develop an individual service plan for each newly-admitted youth, the diagnostic unit staff will compile a thorough needs assessment. Observation, interviews, information from previous evaluations, and testing, including individualized testing, are the ingredients of thorough assessment: the goal of the diagnostic unit is to develop as accurate a picture as possible of each youth's needs.

Order I, Paragraph 52, March 31, 2001.

Finding: Partial Compliance.

Under the direction of the new Director of Mental Health who arrived at Oak Hill in mid-

⁵ YSA's audit estimated that the of June, TSPs for newly admitted youth were completed timely in 90% of the cases.

February, the Department is in the process of structuring "diagnostic assessment meetings" with representatives from YSA and DCPS to compile a needs assessment from observation, interviews, previous evaluations and testing. The purpose of the meetings is to gather pertinent information to enhance the preparation of the treatment plan for both detained and committed youth at Oak Hill. Staff attendance sheets are also being placed in each youth's file. Planning for detained youth is hampered by lack of participation of Superior Court's Division of Social Services, the entity with primary responsibility for detained youth.

Since March 2001, YSA has begun to make changes to merge the diagnostic process with preparation of ISPs. A review of the files in June found that ISPs do not yet reflect the diagnostic assessment meetings. The goal of YSA management is to streamline the diagnostic process and to become more efficient in collecting previous assessments as well as in completing new assessments. YSA and the Department of Mental Health are also working to incorporate information about a child previously known to Child and Family Services, or Court Social Services.⁶

The diagnostic process must result in specific identification of needs and strengths which direct the services to be delivered to youth.

Order I, Paragraph 6, March 31, 2001.

Finding: Partial Compliance.

As noted above, the Department of Mental Health and YSA are in process of developing procedures to address the needs and strengths of youth with specific, identifiable services.

An integrated diagnostic package must be done in such a way that it produces an understandable needs and strengths list which can be used by the team to develop the individual service plan.

Order I, Paragraph 7, June 30, 2001.

Finding: Partial Compliance.

Staff from the Mental Health Department, YSA and Oak Hill Academy conduct assessments and evaluations. Under current procedures, the needs and strengths list is to be

⁶ YSA states that "the court social study is now being forwarded to Oak Hill for use in developing the initial ISP at the diagnostic staff meeting." Defendants' Response, p. 9, See also, pp 3-6. YSA uses a basic format for all ISPs and has hired a consultant to facilitate the implementation of a comprehensive case management system.

reflected in the ISP rather than in a separate document. As noted above, YSA is aware that the diagnostic process for detained youth is hampered by a lack of participation from Court Social Services staff. YSA is compensating by requiring YSA staff to obtain copies of the social history prepared by Court Social Services staff. By the end of June, ISPs reviewed contained a needs and strengths list. ISPs prepared before March 1, do not yet include such a list.

(b) The diagnostic package shall include psychological, education, vocational, medical and family assessments. These assessments must not be more than a year old, and may be repeated more frequently if the diagnosticians see the need to do so. Additional assessments (e.g. psychiatric, neurological, speech) must be done as needed. Assessments must incorporate the observations of cottage staff, probation, and others who have worked with the youth previously.

Order I, Paragraph 53, March 31, 2001

Finding: Partial Compliance.

Diagnostic assessments are being conducted during the first two weeks at Oak Hill. Assessments have not routinely included observations of cottage staff or others who have worked with the youth previously. By the end of June, new procedures required cottage staff to contribute to the diagnostic and assessment process. About half the files reviewed contained a social history prepared by Court Social Services. By the end of the quarter, improvement was also evident with staff use of social histories during diagnostic assessment meetings. Previous forensic psychological and psychiatric test results are also appearing more frequently in the files, though they are still not routinely available at the time of the diagnostic assessment meetings. Confidentiality requirements often prevent immediate release of these reports.

(c) Educational assessments will identify academic needs and strengths and learning problems to be addressed during confinement and current functioning levels as well as vocational interests and aptitude utilizing individualized instruments and measures.

Finding: Partial Compliance.

Educational tests identify current functioning levels and needs, but a June file review indicates that testing does not usually address "strengths" or identify with specificity learning problems to be addressed during confinement. Functional levels are always included; but do not address specific strategies even though most youth test at far below the norm for their ages -- often at the elementary school level. Vocational interests and aptitudes are not always identified. Youth are introduced to computer technology, barbershop, cosmetology, culinary classes, horticulture, auto mechanics, building skills and maintenance.

(d) *The educational assessment will be completed within 3 days of admission.*

Order I, Paragraph 54, March 31, 2001.

Finding: Compliance.

Youth admitted to Oak Hill were being routinely tested by school counselor Ms. Charlene McCullough who left Oak Hill Academy at the end of May. Assessments are still being completed within 3 working days of admission by her assistant, who is a counselor trained to administer the testing. The school has hired a new orientation assessor with a Masters Degree in Psychology and Vocational Counseling to be on staff in mid July. No testing is performed on weekends. Results are placed in the youth's school file and now are included in the TSPs, which are in the youth's social services file and in JIM (computerized data base). Special education needs are derived from a youth's prior school records or assessments performed at Oak Hill.

In the event a youth is suspected of being handicapped and in need of special education services under P.L. 94-142, he will be referred by the next working day after his assessment and will be evaluated by the DCPS eligibility teams within 20 days of his referral except that where there is lack of pre-referral observation or lack of outside assessment information, it shall be within 30 days of his referral.

Finding: Compliance (43rd Report).

In the event an IEP is necessary, one shall be developed as required by P.L. 94-142 and its implementing regulations within 30 days of a youth's evaluation, whether he/she is located at the Receiving Home or at Oak Hill or the Oak Hill Annex.

Finding: Compliance (43rd Report).

There shall be two DCPS eligibility teams for youth confined at Oak Hill and Oak Hill Annex.

Finding: Compliance.

The assessment teams are now known as Special Education Intervention and Assessment Teams

5. *Diagnostic Staff*

As of January 1, 1987, the diagnostic unit will have sufficient qualified assessment professionals in each field to produce a diagnostic package on each youth within two weeks of admission.

Order I, Paragraph 55, June 30, 2001.

Finding: Compliance.

Youth are housed on Units 7A and 7B during initial diagnostic assessments. The diagnostic unit staff operate out of offices located elsewhere on institutional grounds rather than in a "diagnostic unit" located in Units 7A and 7B. As described above, the Department of Mental Health and YSA are in the process of developing diagnostic policy and procedures.

A full-time licensed clinical psychologist (Ph.D.) will be responsible for supervising diagnostic staff and diagnostic procedures and performing other appropriate diagnostic services.

Order I, Paragraph 8, February 28, 2001.

Finding: Compliance.

Dr. Andrea Weisman, Ph.D., Clinical Psychologist, was hired by the Department of Mental Health, to perform the services required by this provision of the decree. Dr. Weisman is in the process of putting together a team of qualified staff to develop diagnostic procedures and other appropriate services for Oak Hill youth.

In addition, there shall be, at a minimum, the equivalent of one full-time masters' level social worker, one full-time certified educational diagnostician, diagnostic referral resources, and support and clerical staff.

Finding: Compliance.

On or about April 1, 1987, two qualified mental health consultants (designated by the parties) shall review whether this is sufficient staff to meet adequately the youth's diagnostic needs. The consultants shall report their findings to the parties and the monitor.

Finding: No longer applicable.

Staff involved in the assessment process will receive special training to enhance their skills of evaluating the needs of delinquent youth.

Finding: Compliance.

Cottage Life Services For All Youth In YSA Institutions

The provisions of Section C, unless otherwise specified, will take effect no later than April 30, 1987. As to youth residing at the facilities prior to April 30, 1987, defendants will make their best efforts to comply with Section C.

1. *Individual Service Plan (ISP)*

By the end of the youth's second week after admission to custody of YSA, he/she will be moved out of the diagnostic unit (unless a longer diagnostic phase is needed for an individual justified in writing in his/her temporary service plan).

Order I, Paragraph 56, March 31, 2001.

Finding: Partial Compliance.

As discussed above, a child's transfer from Units 7A or 7B to another unit at Oak Hill does not automatically occur after 14 days if space is not available in another unit at Oak Hill. Diagnostic services are provided for female youth on their living unit, Unit 6. At least partially because of the commingling that takes place with female youth, they do not receive an orientation program. Female youth do receive diagnostic testing. Cf. Defendants' Response, p. 10 "the diagnostic process will conclude in two weeks... as long as population is not too high or a longer assessment period is justified in writing."

At this point, the Team Leader will convene a team meeting to develop the Individual Service Plan (hereinafter ISP).

Order I, Paragraph 9, March 31, 2001.

Finding: Non Compliance.

Institutional social services staff referred to as "Case Managers" under the new case management system, perform the Team Leader function. This Report will adopt YSA's current title and refer to Team Leaders as Case Managers. Case Managers do not convene meetings to develop ISPs. The two YSA case managers assigned to Units 7A and 7B attend diagnostic assessment meetings and are responsible for writing all ISPs. Goals delineated in diagnostic assessment meetings are not yet reflected in ISPs. YSA will initiate procedures in the next quarter to enable the case manager to convene the meetings in compliance with this provision.

The ISP will list the needs and strengths identified by the diagnostic package, including emotional, educational, vocational, physical and family. The ISP will specify educational, vocational, medical, recreation, cottage life, mental health and aftercare services to be provided to meet these needs. Needs, specific long- and short-term goals, and a specific timetable for each goal will specified in the ISP.

Order I, Paragraph 10, March 31, 2001.

Finding: Partial Compliance.

See finding at Order I, paragraph 52, above. While measurable progress has been achieved in the preparation of ISPs, as of the end of the quarter no ISPs conform with the substantive requirements of this provision. Cf. Defendants' Response, pp 10-11.

The staff person responsible for monitoring that each service is delivered will be specified in the ISP.

Order I, Paragraph 10, March 31, 2001.

Finding: Partial Compliance.

ISPs reviewed did not specify each service with the person responsible for monitoring the service. YSA began to address these deficiencies by the end of the quarter. Defendants' Response, p. 12

The educational plan component of the ISP will include prescriptive goals for remedial, GED, and vocational classes or the IEP goals for special education students.

Order I, Paragraph 57, March 31, 2001.

Finding: Partial Compliance.

ISPs often mention GED as a goal without any further detail to describe the youth's preparation for the test or any post GED objectives. The low achievement levels in reading, spelling and math are not consistent with a strategy for achieving GED certification for many youth. As of the end of the quarter, Oak Hill Academy did not have a GED preparation teacher. (See also discussion in Section IV H.) Several files reviewed did contain documentation that youth had taken the GED with no results reflected in the file. IEP goals and vocational classes are not usually addressed in the ISP. YSA states that changes have been made to address these issues. Defendants' Response p. 11-12.

2. *The Team*

The Team will consist of the youth's Team Leader, cottage staff, teachers, mental health professional staff, and recreation staff, and medical and vocational specialists as recommended by the Team.

Order I, Paragraph 58, March 31, 2001.

Finding: Partial Compliance.

Except for Units 7A and 7B, team meetings are regularly scheduled every Wednesday at 1:00 pm on all units at Oak Hill. Case Managers have been assigned to each unit. Attendance at Treatment Team meetings has not improved since the last Report. Files do not yet uniformly contain references to the meeting and attendees. YCOs, who spend more time with residents than any other category of staff in the institution, still do not attend meetings regularly, nor are their observations routinely provided to treatment teams. In this last quarter, teachers' and mental health professionals' attendance was poor as well. Medical and recreation staff had the best record of submitting a written report when they did not attend meetings.

In the case of detained youth there will also be a social service representative on the Team.

Order I, Paragraph 59, March 31, 2001.

Finding: Partial Compliance.

The social services files of detained youth do not document that a social service representative is assigned to the detained youth. If documented at all, social service representative attendance at Team meetings is reflected in a copy of the meeting attendance sheet.

Individuals who performed the assessments will meet with the Team at its initial meeting to contribute to the development of the ISP.

Order I, Paragraph 11, June 30, 2001

Finding: Non-Compliance.

At the end of June, the diagnostic team and Treatment Teams had not yet begun to meet together to develop ISPs. YSA, Department of Mental Health and the Agency Advancement Team are in the process of making procedural changes to achieve compliance with this provision. Defendants' Response, pp 10 - 12.

For committed youth, the aftercare worker will participate in the initial Team meeting to contribute to the ISP and in its meetings at 60 days prior to release and subsequently.

Order I, Paragraph 60, March 31, 2001.

Finding: Partial Compliance.

At the end of June, BCCS aftercare plans were being filed for youth committed after March 1, 2001. A BCCS social worker is assigned to youth at commitment to function as the aftercare worker but these workers do not participate in the initial team meeting. YSA policy requires aftercare workers to contact youth within 5 days of receiving the case, to attend Team meetings in conformance with this provision, and to meet with youth 60 days prior to release. A file review did not confirm that the aftercare workers are operating in conformance with the policy. YSA states that compliance will be achieved with regular attendance of the aftercare worker at the initial Team meeting. Defendants' Response, p. 6. BCCS reports that aftercare plans are being prepared and are being entered into the JIM system. Direct observation indicates that Social Services workers at Oak Hill did not access these reports from JIM and hard copies were not routinely being printed or placed in files at Oak Hill.

The Team will include the youth in meetings, and his/her parents will be invited to attend as appropriate.

Order I, Paragraph 61, March 31, 2001.

Finding: Partial Compliance.

Youth attend a portion of the Team meeting devoted to a consideration of their case. Parents do not attend the meetings. Some files contain a form letter inviting a parent to attend Treatment Team. Defendants have mandated staff efforts to communicate with youth and parents. Defendants' Response, p. 12.

Teams will be organized by living unit. The Team Leader will ensure consistent personal participation by the members of the youth's team and will ensure that each discipline is represented.

Order I, Paragraph 62, March 31, 2001.

Finding: Partial Compliance.

Each Unit has a Case Manager. As noted above, attendance of team members is still uneven. Team members do not yet function in accordance with this provision. Some Case Managers are more proactive, but do not yet take charge as envisioned in this provision. Increased monitoring and training are planned to address these issues. Defendants' Response, pp. 10-12.

The Team will meet monthly to report on the youth's progress in meeting his/her goals and to modify the ISP as needed.

Order I, Paragraph 63, March 31, 2001.

Finding: Compliance.

Treatment teams meet on a monthly schedule. The ISPs do not yet use a uniform method to document or evaluate a youth's progress.

The Team Leader will have the responsibility to ensure that staff from all parts of the institution modify their services to enhance the youth's progress, as needed.

Order I, Paragraph 64, March 31, 2001.

Finding: Partial Compliance.

Case Managers often take responsibility for service modifications following discussions at Team meetings but, as reported previously, do not yet assure that modifications are implemented. YSA plans greater structure and increased monitoring and supervision to achieve compliance. Defendants' Response, p. 13.

The Team will determine release dates (depending on the court order), and 60 days before projected release will develop a specific aftercare plan with the aftercare worker (see

below).

Order I, Paragraph 12, September 30, 2001.

Finding: No Finding.

Written policies will govern the determination of readiness for release and the release process, developed in accordance with I(B)(2)(C) above.

Order I, Paragraph 13, September 30, 2001.

Finding: No Finding.

3. *Team Leaders*

The Team Leaders will have demonstrated skill as counselors and treatment planners. The majority of the Team Leaders will have master's degrees in psychology, social work, education or counseling. The remainder will have B.A. degrees with equivalent experience and training. Of the remainder, the equivalent experience and training shall be determined by Michael Milan and Margaret Beyer.

Order I, Paragraph 65, June 30, 2001.

Finding: Partial Compliance .

The staff list provided the Monitor at the end of May, "Current OHYC Case Management Staff, April 2001," indicates that the majority of Case Managers do not have masters degrees in accordance with this provision. It is arguable that the majority do not have requisite degrees with "equivalent experience or training" required in this provision.⁷ There currently is some title confusion. As noted above, the YSA case management system assigns the Team Leader duties to Case Managers. The April 2001 YSA document referred to above, identifies personnel assigned to manage the units with a number of titles including: "Treatment Team Leader," "Youth Treatment Coordinator," "Social Services Representative," and "Youth Treatment and Unit Manager," as well as Asst. Youth Treatment Unit Manager.

⁷The April 2001 document lists the following educational credentials for case management staff. Both supervisors have a Masters in Social Work. The three Youth Treatment Team Coordinators report a Bachelors Degree in Political Science; Master of Arts/Counseling; and a High School Degree/Some College-Physical Education. Three Social Services Representatives report two with Bachelors degrees in sociology, and one with a Bachelors degree in elementary education. The four Youth Treatment Unit Managers, report one with a Bachelors in Physical Education, one with a Doctor of Education, one with a Doctor of Philosophy who is a National Certified Addiction Counselor, and one Master of Science/Adult and Continuing Education. There is one Assistant Youth Treatment Unit Manager with a Bachelors of Social Work.

The Team Leader will:

(a) *supervise the cottage life staff with respect to all areas of the youth's ISP;*

Order I, Paragraph 14, June 30, 2001.

Finding: Non-Compliance .

Supervision of cottage staff does not conform with this provision. Compliance with this provision will require Oak Hill to operate radically differently. Unit managers traditionally have had no direct supervisory responsibility for unit staff (YCOs).

(b) *convene the Team to develop the ISP for each youth and monthly thereafter to review the youth's plan;*

Order I, Paragraph 66, March 31, 2001.

Finding: Partial Compliance.

As noted above, Treatment Teams are not yet developing the initial ISP as a Team. They meet monthly with youth after an ISP has been prepared to consider progress in school and resident behavior and to identify and refine goals, but do not revise the ISPs together as a Team. To date, ISPs for all detained youth are prepared by the Case Manager assigned to Unit 7B, and ISPs for all committed youth are prepared by the Case Manager assigned to Unit 7A. In the next quarter, YSA plans to develop an initial ISP at the diagnostic staffing meeting which will include the Case Manager in collaboration with others on the Team. Defendants' Response, p. 4.

(c) *counsel youth individually and assist cottage staff in leading regular group counseling sessions;*

Order I, Paragraph 67, September 30, 2001.

Finding: No Finding.

(d) *ensure that the services specified in the ISP for each youth are being delivered;*

Order I, Paragraph 15, March 31, 2001

Finding: Partial Compliance.

Services are specified although the monitoring of service is not evident. See discussion above. The Agency Advancement Team will monitor and supervise compliance. Defendants' Response pp. 4-5.

(e) *coordinate with the aftercare worker on family contacts, home visits and release, and with the social service representative in the case of detained youth;*

Order I, Paragraph 68, June 30, 2001.

Finding: Non-Compliance.

Case Managers do not yet coordinate with aftercare workers in conformance with this provision.

(f) *monitor court dates and prepare progress reports for committed youth for court hearings, as needed;*

Finding: Compliance.

Court dates are monitored. Under the new case management model, the BCCS social worker assigned to a youth takes primary responsibility for progress reports to the Court, and is expected to confer with the Treatment Team leader. Oak Hill social service files for youth do not usually contain copies of the reports prepared for court hearings.

(g) *be responsible for the recording of the youth's progress on at least a monthly basis.*

Order I, Paragraph 69, March 31, 2001.

Finding: Compliance.

Reviews are performed and documented in monthly treatment team notes or case management notes. Comments tend to be very general. No uniform standard is used to chart a youth's progress or measure outcomes specified in the ISP. YSA agrees that the Case Manager should be held responsible for recording a youth's progress and that monitoring, supervision and team building will be required to achieve compliance. Defendants' Response, p. 13.

The Team Leaders will work on the units on a flexible schedule so as to be accessible to staff and youth on weekdays, evenings, and weekends.

Order I, Paragraph 16, June 30, 2001.

Finding: Non-Compliance.

YSA plans to require Case Managers to work on a rotating schedule to include evenings on the units and one weekend day per month to meet with residents and family. Case Managers' schedules do not yet conform to this provision.

The ratio of Team Leaders to youth will be no less than 1:20. This ratio shall be fully complied with by no later than March 1, 1987.

Finding: Compliance (43rd Report).

The Team Leaders will receive adequate individual and group supervision from either a MSW, a Ph.D. psychologist or other person with equivalent clinical experience.

Order I, Paragraph 70, June 30, 2001.

Finding: Partial Compliance.

Compliance as to supervisors' educational degrees. The findings above with respect to TSPs, ISPs, Treatment Team meetings and Aftercare planning reveal that Case Managers are not yet receiving the supervision designed to bring them into compliance with the requirements of the consent decree.

The Team Leaders will have sufficient support staff to prepare the ISPs and court reports and maintain individual case files.

Order I, Paragraph 17, June 30, 2001

Finding: No basis for finding.

As discussed above, Case Managers do not prepare the ISPs or court reports. They are being held responsible for maintaining case files and updating JIM with this information. During this quarter, YSA's Agency Advancement Team reviewed the maintenance of case files and information in JIM. Defendants have not indicated that lack of staff support is a problem.

D. Recreation

Recreation is an essential part of a youth's development and must include:

1. participation in a range of individual and group outdoor and indoor activities by each youth for a minimum of two hours every weekday, one of which will be one hour outdoors, weather permitting. One hour of the two hours shall be large muscle activity, such as team sports and jogging and regular gymnasium activities.

Order I, Paragraph 18, June 30, 2001.

Finding: Partial Compliance.

Youth at Oak Hill do not have a minimum of two hours of exercise every weekday. In better weather, youth are taken to the basketball courts where some play and others simply relax. Female youth do not have routine outdoor exercise. YSA expects to add one recreation staff person in early July. Defendants' Motion to Enlarge Time, p. [2].

Facilities for daily large muscle activities during inclement weather must be available.

1. *A planned structured recreation program shall be provided on the weekends and evenings. On the weekends, at a minimum, that which is required in D (1) above shall be provided.*

Order I, Paragraph 19, June 30, 2001.

Finding: Partial Compliance .

Direct observation indicates that youth are not receiving a planned structured recreation program on the weekends and evenings. YSA intends to increase monitoring and supervision to assure compliance. YSA has erected a fence behind Unit 10A in order to provide confined youth with outdoor exercise, and has hired one additional recreation staff person as noted above.

2. *Staff trained in therapeutic recreation, adequately supervised, will work on a flexible schedule to include afternoon, evening and weekend hours in a ratio of no less than 1:50 youth. This ratio will be complied with no later than March 1, 1987, and the programs within Section D will take effect no later than April 30, 1987.*

Order I, Paragraph 72, June 30, 2001.

Finding: Partial Compliance .

Since January 1999, there has been one full time recreation person on staff who supervises exercise in the gym. An additional person was hired at the end of June. Staff support is provided to the recreation program by the Deputy Administrator and YCOs assisting the recreation staff person. While the ratio of 1:50 is met under the above circumstances, YSA has contracted with VAMP, Voices and Motion Players, Inc., for evening and weekend therapeutic recreation .

E. Mental Health and Social Services for Youth in YSA Institutions

1. *Adequate mental health services will be provided for youth to supplement the individual and group counseling provided by Team Leaders, cottage staff, recreation staff, and teaching staff. This provision will be effective no later than April 30, 1987.*

Finding: Compliance (43rd Report).

Mental Health staff provide the above services and document their work. The new Director of Mental Health is planning to introduce greater structure to the mental health program, and hopes to provide broader, more in-depth service.

2. *The mental health program for Oak Hill and the Oak Hill Annex will be directed by a licensed clinical psychologist and will be staffed by the following full-time personnel: licensed psychologists in a ratio of no less than 1:100 youth, and a board-certified psychiatrist in a ratio of no less than 1:300 youth.*

Order I, Paragraph 73, June 30, 2001.

Finding: Compliance.

The Mental Health program at Oak Hill is provided by the Department of Mental Health. The clinical psychologist and program director of Mental Health at Oak Hill, is in the process of evaluating needs and developing new policies and procedures for Oak Hill and services in the community. See Attachment 2, "Mental Health's Oak Hill 90-180 Day Work Plan, & Mental Health Referral Process Form," Notice of Filing dated April 2, 2001.

The psychologists and psychiatrists will provide individual and group therapy and other relevant mental health services to youth. The above referenced psychologists shall be in place by January 1, 1987. The above referenced psychiatrist shall be in place by no later than March 1, 1987.

Order I, Paragraph 74, March 31, 2001 as to relevant mental health services; June 30, 2001 as to requisite personnel.

Finding: Compliance.

See findings above. The psychologists hold group and individual counseling sessions with youth on an as needed basis and are assigned to cover living units as well. See discussion above.

3. *In addition to these staff, at both the Receiving Home and Oak Hill and Oak Hill Annex, self-esteem building programs including but not limited to art therapy, music therapy, and dance/movement therapy will be provided as an important part of mental health services for all youth. Qualified and trained staff will offer these programs at the facilities in a ratio of no less than 1:50 youth. These programs may be a collaborative effort of mental health and education. This provision will be effective no later than March 1, 1987.*

Order I, Paragraph 75, June 30, 2001.

Finding: Compliance.

Youth receive art, dance and music therapy.

4. *Adequately trained and a sufficient number of personnel will be available at the facilities to provide drug educational and counseling services, as needed based on the ISPs, and will be part of the mental health program. This provision will be effective no later than March 1, 1987.*

Order I, Paragraph 20, December 31, 2001.

Finding: No Finding.

YSA and Mental Health have been meeting to discuss these matters.

5. *At the Receiving Home, the mental health program will be directed by a full-time qualified master's level social worker who shall provide therapy services and supervise mental health staff. In addition, the mental health unit will include, besides the other staff listed in ¶ E (3) and (4) above: a part time (at least 20 hours per week) board-certified psychiatrist; a full-time psychiatric nurse; and a full-time licensed psychologist (M.A. level). This provision will take effect October 1, 1986. On or about January 1, 1987, two qualified mental health consultants shall review whether there is sufficient staff to meet adequately the mental health needs of the youth at the Receiving Home. The consultants shall report their findings to the parties and the monitor. In addition, at the Receiving Home, social services representatives shall be employed at a ratio of no less than 1:40 detained youth, which representatives shall perform the services listed below in ¶ 6.*

Finding: Not applicable.

6. *At Oak Hill and Oak Hill Annex, the director of social services shall be a master's level social worker. ("MSW").*

Finding: Compliance.

The Division of Social Services at Oak Hill is currently supervised by an Assistant Superintendent of Treatment who holds a Ph.D. in Psychology. Two supervisors below him hold masters in social work and are licensed by the District of Columbia.

Under the supervision of the director, the social services unit will have master's level social workers in the ratio of 1 to 100 youth who shall provide counseling and other appropriate services and guide the activities of the social services representatives.

Finding: Compliance.

Social services representatives shall be members of the social services unit in a ratio of no less than 1:40 detained youth. The above referenced staff shall be in place by January 1, 1987. Social Service representatives shall:

Finding: Compliance.

(a) *meet weekly with each youth;*

Order I, Paragraph 76, March 31, 2001.

Finding: Partial Compliance.

Social services representatives are assigned to units and do meet with youth. Just as in the

43rd and 44th Report, the Monitor could not confirm meetings with each youth through a review of individual files.

(b) contact family members and arrange visiting; make referrals to services needed by family members;

Order I, Paragraph 77, March 31, 2001.

Finding: Partial Compliance.

Social services staff, including members of the Treatment Team, still appear to have little contact with residents' families. Direct observation indicates that it is not routine for social services staff to contact a parent when a youth is admitted to Oak Hill. Some mental health staff appear to maintain contact with many families and some parents appear to rely on mental health staff for advice and assistance.

Visiting at Oak Hill is encouraged with free transportation every Wednesday and Sunday, every third Thursday for a special Parents program and any other special program. No documentation in social services files at Oak Hill or direct observation, confirmed referral services for family members or any follow up.

(c) discuss dispositional alternatives with probation and/or aftercare workers and attorney;

Order I, Paragraph 78, March 31, 2001.

Finding: Partial Compliance.

BCCS social workers are assigned to youth at commitment and are responsible for researching dispositional alternatives. Communication with Court Social Services Probation Officers is not yet routine.

(d) recommend to Probation and request to Corporation Counsel, Juvenile Branch, and defense attorneys to file motions recommending the court lower levels of detention for youth as needed;

Order I, Paragraph 79, March 31, 2001.

Finding: Partial Compliance.

BCCS takes responsibility for these discussions and some progress is evident. Recommendations are made routinely to Corporation Counsel. There is little indication of routine communication with defense attorneys by the majority of BCCS workers.

(e) prepare for submission to the court a disposition report.

Order I, Paragraph 80, March 31, 2001.

Finding: Compliance.

Oak Hill forwards information to Court Social Services. In instances in which the youth is both detained and committed, BCCS staff provide a dispositional report to the Court.

7. *Mental health services for YSA institutions will be coordinated in the office of the YSA Administrator. As long as this coordinator position is located within CSS, the coordinator shall be a licensed Ph.D. psychologist or the equivalent. The coordinator will be appointed no later than January 1, 1987.*

Order I, Paragraph 21, February 28, 2001.

Finding: Compliance.

The Commission on Social Services (CSS) no longer exists. As previously noted, the Mental Health program at Oak Hill is under the supervision of Dr. Andrea Weisman, a Ph.D. clinical psychologist who is employed by the Department of Mental Health. The Mental Health program at Oak Hill reports to the Director of Out Patient Programs, Department of Mental Health Services. Dr. Weisman serves as a member of YSA's Executive Team, the Oak Hill Program Committee, and Oak Hill's Institutional Review Committee.

F. Aftercare for Committed Youth in YSA Institutions

The provisions within Section F will take effect no later than April 30, 1987.

The goals of aftercare are to:

(a) *provide youth with opportunities for vocational, educational and social success in the community.*

(b) *insure a supported transition from the institution to the community, including in-home family services and transfer of institutional school, vocational and counseling programs to comparable services in the community.*

An aftercare worker will be assigned to the youth at commitment and will have a meeting to discuss aftercare with the youth during the first two weeks after institutional admission.

Order I, Paragraph 81, March 31, 2001.

Finding: Partial Compliance.

The non-educational piece of the aftercare program is administered by BCCS social workers. The educational program is administered by Oak Hill Academy. As discussed above, aftercare planning is to begin at the time the youth is committed and is to be developed with

input from the Treatment Team and youth. By the end of June, YSA had established new procedures to increase compliance with aftercare requirements. YSA assigns an aftercare worker following receipt of a commitment order. Aftercare workers do not yet routinely meet with youth within the first two weeks after institutional admission. BCCS managers plan to assign aftercare workers earlier than in the current system in order to facilitate compliance. As noted in further detail in other sections of this Report, Oak Hill Academy has implemented procedures to provide transition and continuing aftercare support returning to schools in the community, and YSA has contracted for aftercare services in the community along with its grant for intensive aftercare services for youth released from Oak Hill.

Tentative aftercare plans will be incorporated into the ISP. A detailed aftercare plan will be developed 90 days after admission, and the aftercare worker will be involved in this meeting of the Team.

Order I, Paragraph 22, March 31, 2001.

Finding: Partial Compliance.

ISPs make reference to a possible placement. For youth committed to YSA after March 1, 2001, aftercare plans have been prepared, and are available on JIM. While this is a step forward, plans are not yet routinely incorporated into ISPs in the files at Oak Hill for youth committed before March. The Plans have not been prepared in conformance with the ISP/Treatment Team meeting required in this provision. Greater supervision and accountability is planned to address these issues. Defendants' Response, pp 5-7.

At least 60 days prior to release, the aftercare worker will meet regularly with the Team and will revise the aftercare plan in a session with the youth and family.

Order I, Paragraph 23, March 31, 2001.

Finding: Non-Compliance.

Aftercare workers have not met regularly with the Team 60 days prior to release or revise aftercare plans in a session with the youth and family. By the end of June, YSA had implemented new supervisory and monitoring procedures. BCCS aftercare workers are to attend "every team meeting starting with the initial team meeting convened by the 30th day after admission." ... "Continuing attendance by aftercare staff at team meetings anticipated compliance with this provision along with "continuing monitoring, supervision and training" to facilitate compliance. Defendants Response at p. 6. Accordingly partial compliance is expected by July.⁸ See also, Defendants' Response, pp 5, 7.

⁸ The federal grant for a partnership with the Community Trust Neighborhood Initiative would also complement the aftercare program. The pilot program is not yet operational. Grant funds have not yet been released.

The aftercare worker will have a family meeting in the home on each home visit during these 60 days.

Order I, Paragraph 24, June 30, 2001.

Finding: Non-Compliance.

YSA's current plan is to have BCCS social workers function as aftercare workers and to be responsible for contacting the family and assisting with home visits. The Consent Decree envisions collaborative aftercare planning between YSA, the individual youth and his family. BCCS files indicate that some social workers are meeting with families, though not necessarily in the 60 days prior to release.⁹ The process is not documented in the ISPs at Oak Hill. Defendants requested until September 19, 2001 to comply with this provision. Defendants' Motion to Enlarge, p. [2].

Starting 60 days prior to release, the aftercare worker will, with the assistance of institution staff, make specific arrangements for the youth's transfer to community programs, including conveying school transcripts, vocational certificates, etc.

Order I, Paragraph 82, March 31, 2001.

Finding: Partial Compliance.

The record indicates that few arrangements for youth comply with this provision. In practice, planning is less than 60 days in advance. Oak Hill Academy does not receive "transfer" information from YSA on a timely basis, which delays the conveyance of a youth's educational records to the school in the community or to an out-of-state placement. The record indicates that when youth are released into the community after a court hearing, Oak Hill Academy does not receive notification of the transfer on a timely basis.

As reported in the 43rd and 44th Monitor's Reports, the educational component of the aftercare program is in place. Funded by DCPS for Oak Hill Academy, the Transition Program has a supervisor at Oak Hill Academy and Transition Specialists stationed at four high schools: Ballou High School (Southeast); Anacostia High School (Southeast); Spingarn High School (Northeast); and Cardozo High School (Northwest). Oak Hill Academy will track the outcome of youth in this program. Oak Hill Academy transition staff are responsible for conveying school transcripts and vocational certificates, and for brokering the acceptance of the youth back into community schools. Experience suggests that youth returning to school in the community often suffer from the stigma of having come from Oak Hill. The prevailing theory is that the high drop-out rate for these students is attributed partially to their treatment by members (both staff and

⁹ By the end of June, YSA had developed a method to calculate anticipated release dates for youth committed to YSA after March 1, 2001, to assist in compliance with the 30, 60, 90 day requirements in aftercare planning. Implementation of the process was set to begin in July.

other students) of the school community.

The Transition Specialists assist all Oak Hill Academy alumni during the school day by providing students with support in academics and social skills. In addition to conveying records, the Specialists are acquainted with the student's educational assessments and advise teachers about the students' needs. They provide support with school assignments, monitor students' progress, introduce strategies to address impediments, and intervene on behalf of students as appropriate. They are also required to make home visits and meet with parents. In addition, YSA funds a job placement coordinator who assists former Oak Hill youth in finding after-school employment.

Youth will be in a pre-release unit for 30 days prior to release, unless his ISP provides otherwise.

Order I, Paragraph 25, June 30, 2001.

Finding: No finding. (To be discussed by the parties.)

There is no pre-release unit. As noted above in footnote 9, YSA recently developed a procedure to track anticipated release dates (for youth committed after March 1, 2001.) YSA plans to provide specialized services to assist youth with pre-release planning. YSA's partnership with the Community Trust Neighborhood Initiative (CTNI) will introduce a pre release program to Oak Hill youth.¹⁰ The program is scheduled to begin upon receipt of federal grant money.

The aftercare worker will meet weekly with the youth and family during the pre-release unit stay.

Order I, Paragraph 26, March 31, 2001.

Finding: Non-Compliance.

Given that there is no pre-release unit, it is not possible for aftercare workers to meet the literal requirement of the consent decree. The current mode of operation, however, does not meet the spirit of the decree, pursuant to which aftercare workers would meet weekly with residents at Oak Hill prior to their release, with the family or with youth and family together. YSA requires its aftercare workers " to meet weekly with youth and youth's family commencing 30 days prior to release" but compliance is not evident in files at Oak Hill. Increased monitoring and supervision is planned both to encourage and to confirm compliance. Defendants' Response, p. 7. Pursuant to Order I, the parties are also discussing these issues in the context of the community-based continuum of services.

¹⁰ The pre release pilot program will provide service to a limited number of youth at Oak Hill.

Immediately after release, the aftercare worker will provide more intensive support to help the youth and family with re-adjustment. Youth will require considerable support (from aftercare workers and referral agencies) to experience success in school/work and at home after release.

Order I, Paragraph 27, June 30, 2001.

Finding: Partial Compliance.

YSA has a grant from the Justice Department to provide intensive aftercare support for some youth returning to Wards 7 and 8. This grant will enable BCCS to hire staff to work with youth upon return to the community. BCCS has placed workers in Wards 7 and 8, east of the Anacostia River, from which almost half of the Oak Hill population comes.¹¹ In addition, YSA has contracted for other services to provide youth with intensive aftercare support upon release. YSA is working to improve documentation of these services. No data tracks a youth's experience after release to document success or general experience with the services provided as intended by this provision.

In the event that a youth will be released from the institution in less than 90 days, the above timetable will be changed accordingly.

Order I, Paragraph 28, March 31, 2001 to meet with youth; June 30, 2001 for full implementation in accordance with Order I, Paragraph 27.

Finding: Non Compliance.

See findings above. YSA is discussing this issue and is working with the Agency Advancement Team to address aftercare timetables.

In the event that a youth is unexpectedly released from the institution prior to the pre-release phase, the aftercare worker will prepare an aftercare plan to provide the support services described above.

Order I, Paragraph 29, June 30, 2001.

Finding: Non-Compliance .

See findings above. Defendants requested until September 15, 2001 to comply with this provision in their Motion to Enlarge. (At p.2).

G. Recordkeeping

¹¹ The Mayor's Blue Ribbon Commission reports that 64% of the youth in the District of Columbia reside in Wards 7 and 8.

In terms of record keeping, the defendants shall comply with ACA Training School Standards 2-9109 through 2-9116 (1983 ed.) by no later than April 30, 1987.

Order I, Paragraph 83, June 30, 2001.

Finding: Partial Compliance .

YSA is updating its case management policy and procedure manual which will cover these requirements. For example, ACA Standard No.2-9109 requires written policies and procedures to govern record management. Standard No. 2-9116 requires written policies and procedures to assure that when a youth leaves an institution and is transferred to another institution, his updated file is transferred to the new institution within 24 hours.

H. Educational and Vocational Programming

The provisions of section H will be fully complied with no later than September 1, 1987 unless otherwise specified.

1. Defendants agree to comply fully with the requirements of P.L. 94-142, Section 20 USC ¶1401 et seq., and its implementing regulations by September 1, 1987.

Finding: Compliance (43rd Report).

2. By no later than September 1, 1987, in order to provide adequate education to meet the individualized needs of students, educational personnel shall be employed as follows:

(a) Special education teacher to youth will be in the ratio of no less than 1 to 10 youth, except for seriously emotionally disturbed youth which shall be a ratio of 1 to 6.

Order I, Paragraph 30, September 30, 2001.

Finding: No Finding.

Oak Hill Academy has openings for 3 special education teachers.

(b) In addition, defendants at all times shall employ a sufficient number of academic teachers to provide a ratio of one teacher to 15 students (in regular academic classes). This ratio shall be achieved by September 1, 1987. The number of teacher positions for regular academic classes filled as of September 1, 1987 may not be reduced unless there are fewer than 10 students per teacher. If the number of students per teacher in regular academic classes increases above 10, the number of such teacher positions shall be increased to maintain no more than 10 students per teacher until the number of positions equals that number created as of September 1, 1987. Defendants shall not be required to increase the number of teacher positions in regular academic classes beyond the number of teachers employed in such

classes on September 1, 1987 unless there are more than 15 students per teacher in such classes.

Finding: Compliance (43rd Report).

(c) There shall be a principal and an assistant principal for Oak Hill and Oak Hill Annex and a qualified education coordinator for the education program at the Receiving Home.

Finding: Compliance (43rd Report).

(d) A roster of substitute teachers shall be available so that full coverage will be provided at all times in the event of a regular teacher's absence, by no later than September 1, 1986. Aides shall be provided for special education classes.

Finding: Compliance (43rd Report).

One full-time substitute teacher has been trained and has been on staff at Oak Hill Academy since October 1999. In addition, a roster of substitutes is available. There are two levels of placement for special education at Oak Hill. There is a self-contained class for students whose IEP indicates that they should not be part of an open population classroom. Other students with special education needs are in a special education "inclusion program" which means that they are placed in a general school population classroom with a special education teacher who is assigned to collaborate with the classroom teacher to meet the identified needs of the youth in the inclusion program.

3. The D.C. Competency based curriculum shall be fully utilized, with teachers fully trained in its use, by no later than January 1, 1987.

Finding: Compliance (43rd Report).

The DCPS "Content Standards-Based Classroom" curriculum has been used at Oak Hill Academy since September 1999, and all teachers have been trained in its use. Four teachers at Oak Hill Academy are "Content Specialists," attending periodic training sessions at DCPS so that they, in turn, can provide mandatory in-service training at Oak Hill Academy. In addition, Oak Hill Academy management expects to augment the DCPS Content Standards with a standardized curriculum manual to address the specialized needs of institutionalized juveniles. Oak Hill Academy now uses the same text books issued in other DCPS schools.

4. By no later than February 1, 1987, youth shall receive a full day of school comparable to the number of hours he would be provided by the DCPS. In no event shall a youth be afforded less than 5 hours of schooling per day.

Finding: Compliance. (43rd Report).

The finding of compliance is based on students attending Oak Hill Academy. Students attend class from 8:15 a.m. to 3:15 p.m. every day except Wednesday, which is structured to provide a half-day to permit teachers to attend Treatment Team meetings. Every class is now required to end with 15 to 20 minutes of reading comprehension in a structured reading activity. YSA has purchased books for every unit to supplement the literacy program. All students have been assigned one hour of homework to be completed with the support of YCOs in the cottage units on the following schedule: Monday and Wednesday, math; Tuesday, social studies and science; Thursday, art, vocational studies or music. Youth in Unit 10A (disciplinary) do not attend school but are provided educational packets. Youth on Unit 10B (protective custody) may attend school on the unit or in the school building. If they go to the school building, these youth are separated from other youth. Specialized educational programs are provided youth on Units 7A & 7B (orientation and diagnostic). The goal is to have all male students attend the school. Female youth attend school on their housing unit (Unit 6), which has academic teachers assigned to it for the morning. Female youth are scheduled for time at the technology lab at Oak Hill. There are vocational classes in the afternoon.

5. *An array of enrichment and academic subjects shall be provided in the school program which approximates that which would be available to the youth if he were attending school in the DCPS.*

Finding: Compliance (43rd Report).

Compliance as to students attending Oak Hill Academy.

In February 2001, Dr. O'Connor hired a bilingual teacher to instruct Hispanic youth who either do not speak English or demonstrate weak English language skills. During the current semester, ending in June, English as a Second Language (ESL) courses included ESL Social Studies I, and ESL Science I. English classes were taught first semester, but not last semester in keeping with the curriculum for all students. To date there has not been a special class for GED students. Dr. O'Connor is addressing this issue and hopes to hire a teacher to teach a GED preparation course who will also assist students with a career or academic plan to follow the receipt of a GED.

Other than the chronic problem of hiring and retaining teachers, the Monitor believes the following issues to be of continuing concern: suspension from school for disciplinary reasons, the quality of schooling for Spanish-speaking youth, and the quality of educational services available to youth on Units 6, 7A, 7B, 9B, 10A and 10B.

Finding: Compliance (43rd Report).

6. *As of the date of the signing of this Decree by the parties, all newly hired*

educational personnel providing educational services to youth must obtain certification by the DCPS in their respective areas of specialization before they may function in the respective positions for which they were hired. YSA will make reasonable efforts to encourage all present (as of the signing of this decree) educational personnel to apply and become certified by DCPS as soon as possible. YSA will pay for any additional necessary costs to obtain such certification, including tuition costs.

Finding: Compliance (43rd Report).

As of July 2000, all teachers on staff and all newly hired teachers have been required to instruct in the content area of their certification. Despite continuing teacher shortages in the metropolitan area, compliance with this provision continues largely through the tireless and aggressive efforts of Dr. O'Connor to fill positions vacated by teachers who are not being rehired after performance reviews this year. DCPS has approved a 12-month teaching contract beginning with the summer of 2001.

7. *By no later than October 1, 1986, teachers shall be provided adequate equipment, educational materials, resources, and supplies to conduct their classes and to meet the individualized needs of their students.*

Finding: Compliance (43rd Report).

8. *By no later than February 1, 1987, except for classes during the diagnostic phase and during periods of disciplinary confinement, no classes shall be conducted on the units and all children shall have the opportunity to attend a school building at Oak Hill or Oak Hill. Annex or any other appropriate school facility; in the case of the Receiving Home, the areas designated as classrooms, or any other appropriate school facility.*

Finding: Compliance.

9. *By no later than February 1, 1987, upon appropriate testing and assessment, all students shall be placed in classrooms based upon their individual abilities, strengths, and weaknesses.*

Finding: Compliance (43rd Report).

Teachers are required to monitor students' progress. All Oak Hill Academy students are assessed by the DCPS Sat 9 test twice a year. Teachers do not always demonstrate knowledge of the youth's testing/assessment level. Dr. O'Connor is currently using an "inclusion model" which places students of varying skills in the same class with additional individual support. Students' individual needs are identified through the diagnostic assessments or by teachers as they work with them in a class. Every classroom has a teacher assigned to work in partnership with the teacher assigned to that class. Reading specialists are also assigned to assist in classes

with students needing remedial reading support. The lack of special education teachers continues to challenge the delivery of education to students needing special education services. Continuing behavioral problems during classes continue to challenge teachers and non-disruptive students. YSA has announced it will train YCOs to assist teachers in classrooms during the school day — beginning in September 2001.

10. *Within 3 months of the signing of this Decree, in order to achieve full compliance with P.L. 94-142 and its implementing regulations, Martin Gerry, an expert selected and agreed upon by the parties, shall develop for the facilities a comprehensive and specific plan with goals and timetables addressing each of the requirements of P.L. 94-142 and its implementing regulations, including but not limited to: identification, and evaluation; development and implementation of individualized educational plans; provision of a full continuum of special education and related services; procedural safeguards; and agency coordination and monitoring; and staffing levels and training requirements. The plan shall be fully implemented by September 1, 1987. The expert shall work closely with DCPS and YSA and assist in the development of procedures and their implementation. If there are no objections to the plan developed by the expert within 30 days of its submission to the Court, it shall be incorporated herein by reference upon the approval of the Court. The plan shall at a minimum require compliance with the provisions in this section. Martin Gerry shall in addition serve as a consultant to the monitor, with responsibility for the monitoring of all regular and special educational programming at the facilities.*

Finding: No longer applicable.

11. *The Administrator for Rehabilitation Services Administration, Vernon Hawkins, shall, with the assistance of pertinent D.C. employees, develop a plan within 3 months of the signing of this Decree by the parties to ensure that sufficient and meaningful vocational programming is provided at the institutions to meet the individualized needs of all youth, pursuant to their ISP's. The plan shall devise such a program with specific courses along with requisite staffing levels. Pursuant to the plan, all children, at a minimum, shall have the opportunity for pre-vocational or career education courses. All instructors will be appropriately certified by RSA for handicapped youth and by DCPS for non-handicapped youth. The plan shall require compliance, at the least, with the ACA Training School Standards 2-9338-9339 and 2-9343 through 2-9350 (1983 ed.). The plan shall have specific goals and time tables to ensure implementation. The plan shall be fully implemented by September 1, 1987. If there are no objections to the plan within 30 days of its submission to the Court, it shall be incorporated herein by reference upon the approval of the Court.*

Finding: Compliance (43rd Report).

Dr. O'Connor has agreed to give performance evaluations of vocational teachers and hopes to address the vocational curriculum at Oak Hill in the next year.

12. *In order to perform their functions, the educational and vocational experts in ¶10 and ¶11 above may utilize personnel with expertise in the District government where they deem it appropriate. The District of Columbia shall compensate the expert referred to in ¶10 for reasonable costs and fees for the performance of his functions. The expert shall, after consultation with counsel for the parties, propose his budget. If there are no objections to the budget, Or if objections are resolved within ten (10) days, the budget shall be accepted and incorporated herein. If the expert and the parties are unable to resolve a dispute concerning his budget, such dispute shall be submitted to the monitor. If the matter still remains unresolved, the issue shall be submitted to the Court.*

Finding: Not applicable.

V. DISCIPLINE

A. *Institutional Care Services Division, Rule 412(hereinafter "412") dated April 13, 1981, shall continue to govern discipline of youth, subject to revisions and conditions herein. Defendants may at anytime redraft the provisions of 412 for purposes of clarity and to improve administration of the disciplinary system so long as such changes do not reduce the substantive and procedural due process rights provided by 412 to a resident. If the defendants redraft any portions of Policy 412, copies of such proposed changes shall be submitted to both parties and to the monitor for comment. If plaintiffs do not object to the proposed changes, they shall be adopted. If plaintiffs object, those objections shall be considered a substantial dispute, and may be implemented upon approval by the court. In the event 412 is revised as part of a "behavior modification program", then defendants will consult with Michael Milan and follow the process described above concerning such proposed changes.*

Order I, Paragraph 84, June 30, 20001

Finding: Compliance.

The provisions in Section V below will take effect no later than September 1, 1986.

1. *If a resident is confined in pre-hearing detention, the hearing shall be held within 24 hours. Upon placement in pre-hearing detention, the Superintendent shall be notified immediately and must review the placement, on site, before the end of the shift. If the Superintendent is unavailable, the review shall be conducted by the O.D., and the Superintendent will review the placement on his next working day. At the time of the review by the Superintendent or the O.D., if the resident is not dangerous to himself or others, or in serious danger from others, he shall be released from pre-hearing detention at that time.*

Order I, Paragraph 85, February 28, 2001.

Finding: Compliance with Order I. Partial Compliance as to all other requirements.

Compliance as to Order I's directions for pre-hearing confinement procedures, YSA

issued two memoranda dated February 9 and 27, 2001 respectively. The February 9 memo requires youth to be released within 20 hours of confinement unless further confinement was authorized "through a due process hearing." According to the February 27 memo, youth may be placed in confinement if "they are a danger to themselves, others or are out of control and destroying property." Of continuing concern is the practice of lengthy administrative segregation on Unit 10A for youth with serious behavioral problems. Without a structured treatment program, this administrative confinement becomes punitive and, thus, a violation of this provision of the decree. The last Report noted that Mental Health had proposed the creation of a special unit with a treatment program for youth who exhibit chronic behavior problems. YSA management have not yet agreed that a specialized unit is appropriate. YSA will augment supervision and is "seeking to develop a more structured program for Unit 10A." Defendants' Response, p. 14.

After being sent to Unit 10A for confinement, youth are to be released from confinement within 20 hours unless a hearing officer rules that a resident will be confined longer through a due process hearing. Direct observation indicates that a number of youth continue to spend more than 20 hours of pre-hearing confinement on Unit 10A on weekends.

In May 2001, seven youth escaped from Oak Hill through an opening cut in the fence. By June 4, 2001 five of the seven youth had been apprehended and returned to Oak Hill. They were assigned to the disciplinary Unit 10A.¹² This situation raises issues about the policies and procedures governing the use of administrative segregation, pre hearing confinement, and confinement as punishment. To date, YSA has not published policy and procedures for the use of Administrative Segregation.

The Monitor has reported repeatedly that line staff have not been provided with sufficient training in intervention skills nor provided with sufficient supervision so as to be able to reduce the number and severity of incidents, or strategies for developing alternatives to confinement. As a consequence, YCOs often classify any difficult behavior as a "danger to himself and others" in order to conform to Rule 412 and confine a youth to Unit 10A for extended periods of time.

2. *The maximum penalty for a major rule violation shall be no more than five days in room confinement, including time served in pre-hearing detention.*

Order I, Paragraph 86, Immediate.

¹² On June 15, 2001 these youth were locked down because the YCOs reported that the youth were suspected of smoking marijuana in the bathroom. They were searched. No contraband was found and no drug test was performed to confirm the use of contraband. The Monitor was asked to leave the unit because the extended disturbance caused by the youth yelling, screaming, kicking and knocking down light fixtures, caused other youth on Unit 10A to become increasingly agitated and difficult to handle.

Finding: Compliance.

In response to Order I, YSA Administrator Gayle Turner recirculated the Memorandum she had issued to Oak Hill staff in August 1998, reducing to a maximum of 3 days the period of time a youth could be placed in room confinement.

3. *Residents in room confinement shall be provided all of the rights specified in Policy 412, with the following additions:*

(a) *the resident shall be allowed to have reasonable communication with other residents.*

Finding: Compliance (43rd Report).

(b) *the resident shall be provided regular appropriate institutional clothing;*

Finding: Compliance (43rd Report).

(c) *the resident shall be provided with one hour large-muscle outdoor exercise daily, weather permitting. If weather does not permit, and if there are three or more residents in room confinement, as to Oak Hill and Oak Hill Annex such exercise shall be provided in the gym or, as to the Receiving Home, in a facility referenced in IV D. The resident shall be provided an opportunity for a shower following exercise.*

Order I, Paragraph 31, March 31, 2001.

Finding: Partial Compliance.

A resident in Unit 10A is allowed to leave his room and walk around the unit or watch TV for the time outside his room. Large-muscle exercise is scheduled at the gym 3 times per week on Monday, Wednesday and Friday, usually to play basketball. Towards the end of the quarter, YSA erected a fenced area to permit easier access to outside exercise for youth in Unit 10 A.

(d) *education equivalent in duration and subject matter and materials to that provided to residents not in room confinement; such education shall be provided by the youth's teacher and he shall have meaningful contact with his/her teacher each day.*

Order I, Paragraph 87, March 31, 2001.

Finding: Compliance .

Teachers are assigned to work with students in Unit 10A. A packet of schoolwork is prepared for each youth on the unit. Direct observation indicates that delays in delivering a

packet to a youth in room confinement have occurred when the school is not notified promptly of the youth's temporary housing placement..

(e) *access to legal services including telephone calls to attorneys.*

Finding: Partial Compliance.

Direct observation indicates that the policy for making phone calls to attorneys varies from unit to unit. No standard procedure is practiced or enforced. Calls to attorneys are supposed to be allowed each day. Some units post a notice that phone calls are allowed only on Thursdays and Sundays which would limit access to an attorney to one day a week at best. Based on reports from youth, some staff are more sympathetic than others in assisting youth with phone calls to attorneys. Incident reports record problems with youth when denied calls. See page 17 of Oak Hill Residents' Handbook, January 2001 (requiring approval by "treatment coordinator"). Training and supervision would improve consistency among the units. See also, findings at Section IX E. On June 29, 2001 YSA issued a revised policy which includes procedures for to assure a youth contact with his attorney. See YSA Policy 12.1.

(f) *clinical staff shall talk with the resident on a daily basis and record their observations and visits in the log book and discuss those observations with staff.*

Order I, Paragraph 88, March 31, 2001.

Finding: Partial Compliance.

Handwritten log book entries are very difficult to decipher, and do not always identify why staff are on the unit. Mental health files reflect daily visits to youth. Clinical staff do not routinely confer with or discuss their observations about a daily visit with unit staff. It is extremely difficult to determine from notations in the log books, that all residents are visited daily. Cf. Defendants' Response, p. 15, which is not totally responsive to cited concerns: "Clinical staff visit youth in Unit 10A and will note in the Unit log that they have discussed their observations....when they do so."

4. *In lieu of any panels provided in 412 for a disciplinary hearing, the hearing shall be conducted by a hearing officer, independent of the facilities, who reports directly to the Administrator of YSA. The hearing officer shall receive appropriate training and supervision in the operation of the disciplinary procedure. The hearing officer shall provide a summary of each hearing, including the names of witnesses and their statements.*

Finding: Partial Compliance. (Change from 44th Report.)

There is one hearing officer at Oak Hill. There is no policy and procedure in place to assure uniform decisions. Summaries of hearings are prepared, but are not readily available for

review and are not always available to attorneys representing youth.¹³

B. If a youth is physically and emotionally out of control, he may be removed to his room for a non-punitive cooling off period not to exceed one (1) hour. A cooling off period may be used only on an individual basis and not as a group measure. During that cooling off period, the youth shall be visually monitored every 15 minutes and his status and behavior noted in the log book at each 15 minute interval. The youth shall be informed of the maximum length of the cooling off period, and be given the reasons for the cooling off period, and an opportunity to explain his side of the story.

Order I, Paragraph 89, March 31, 2001.

Finding: Partial Compliance.

During the quarter, incident reports reviewed indicated that YCO's did not have a clear understanding of policy and procedures or strategies to address a youth's conduct including "cooling off" periods. On June 29, 2001, YSA issued "Rules for Handling Youth Conduct" which provides among other things, instruction for the use of "cooling off" periods with youth.

1. Immediately after placing the youth in a room for a cooling off period, the officer or counselor shall notify the Team Leader (or the OD, if the Team Leader is not available) who will make an on-site review of the situation within half an hour, talk with the youngster and the staff member, and sign and date the incident report described in section 2, below, and note his assessment of the situation, a copy of which shall be forwarded to the Superintendent.

Order I, Paragraph 90, March 31, 2001.

Finding: Partial Compliance.

Youth are still routinely sent to Unit 10A for cooling off periods when there are incidents at school or on cottage units. In these instances, an incident report is filed and the OD notified. It is not routine to have the Case Manager make an on-site review within half an hour. Incident reports vary in quality and suggest the use of "cooling off" is more punitive than instructive in practice. See also discussion above.

2. After making the notification described in V (B) (1) above, the person placing the youth in a room for a cooling off period shall write an incident report describing the date and time of the incident and of placement into a room, the circumstances surrounding the incident,

¹³ During the last quarter, the Juvenile Service Project of Public Defender Service, raised a number of concerns about the hearing process including: the fact that a youth's decision not to have an attorney at a hearing may be influenced by the Hearing officer, PDS access to youth prior to a hearing to prepare, and the arbitrary cancellation of hearings.

the use of force, any injuries that may have occurred, and medical treatment provided.

Finding: Compliance.

Incident reports indicate cooling off periods usually take place in Unit 10A. Incident reports filed include date, time and circumstances. Incident reports are difficult to monitor as a number of residents and staff can be involved and thus numerous reports generated. The greater the number of individuals involved in an incident the more difficult it is to ascertain if all staff involved have filed incident reports. The reports are handwritten and difficult to read. Incident reports on the same incident enjoy remarkable similarities.

VI. RESTRAINTS

A. Instruments of restraint may only be used as a precaution against escape, during transit, for medical/mental health reasons under medical/mental health authorization, and to prevent youths from self-injury, injury to others, or property damage. They must not be used for more time than is necessary nor for punishment. Restraints shall not be used unnecessarily or as a substitute for adequate programming and adequate psychiatric services. Accordingly, personnel shall use restraints only in the manner set forth below:

B. Leg Irons

Leg irons only may be used in moving a youth from one institution to another, if (a) it is determined that the youth is an escape risk; (b) the use of leg irons is ordered by the court, or (c) the youth is residing at the Oak Hill Annex and is classified as maximum security. Leg irons shall not be used to attach a youth to another child or object.

Order I, Paragraph 91, March 31, 2001.

Finding: Compliance. (44th Report).

Leg irons are used routinely when a youth is transported outside the institution. Unit 6 youth are placed in leg irons during transportation to the Oak Hill campus. Leg Irons are not used to attach youth to each other or to objects.

C. Handcuffs

1. Handcuffs may be used in transit to or from a youth's facility.

2. Handcuffs may be used where a youth becomes physically violent and they are needed to transport the youth to his room, but they shall be used only if it is clear that less restrictive methods of control are not feasible. When handcuffs are used in this manner, they shall be removed as soon as the youth regains his/her control or is confined to a room unless it appears that the youth is still out of control and restraints are still necessary to prevent injury or

property damage.

Order I, Paragraph 92, March 31, 2001.

Finding: Compliance. (44th Report).

Incident Reports record the use of hand restraints when a youth is violent. Incident reports and the monthly report statistics on use of hand restraints often differ.

3. *If restraints are used while a resident is in his room the staff member shall immediately notify the Superintendent, or the O.D. if the Superintendent is not available. The Superintendent or O.D. shall promptly notify the physician's assistant (1) who will respond immediately but no later than half an hour, except when detained by an emergency, to personally make an on-site review of the youth and (2) who shall if he feels it appropriate notify a physician.*

Finding: Compliance.

Medical reports and incident reports in the last quarter continue to indicate that YCOs routinely notify PAs after altercations and take residents to the medical unit. Youth are not restrained once confined in their rooms.

4. *Restraints will never be used to attach a youth to any object except in extraordinary circumstances. In these circumstances, the Officer of the Day and/or the Superintendent shall be immediately notified. The OD or the Superintendent shall make the decision whether the youth shall remain so restrained. If the youth shall remain so restrained, the OD or Superintendent shall immediately notify the physician telephonically. The physician, within no more than thirty minutes, shall respond to the facility to monitor the youth's condition, or authorize the youth's transportation to a hospital. While the physician is en route, a physician's assistant shall continuously monitor the youth. If a youth remains in restraints for 90 minutes, the physician shall order that the youth be taken to a hospital or appropriate medical facility or contact the medical director for further advice.*

Finding: Compliance.

No incident reports indicated that restraints were used to attach youths to objects.

D. Records

1. *Every use of restraints (except when used for purposes of transport from one institution to another or to court) shall be reported on a standardized form which shall include the youth's name, the date and time of the incident, the amount of time in handcuffs, a statement of the circumstances leading to the use of handcuffs, any injuries incurred, and the signature of the staff and medical persons authorizing the use of handcuffs and the*

countersignature of the Team Leader, and Superintendent (or the O.D. if the Superintendent is not available) and remarks if any. A copy of this report will be kept in the youth's file, and in a restraint file retained by the Superintendent.

Order I, Paragraph 93, March 31, 2001.

Finding: Partial Compliance.

No report is compiled in technical conformance with this provision. Incident Reports prepared by Oak Hill staff describe the circumstances requiring the use of mechanical restraints during the course of an incident. Unit 10A has a log book to document use of restraints. Both observation and incident reports indicate that when a youth's conduct leads to his being placed in mechanical restraints, he will be sent to Unit 10A, and released from the restraints once he is confined there. Females subject to restraints are confined to their room on Unit 6 and are released from the restraints once secured in their room. YSA has prepared a policy and procedure to address these issues which was objected to by Plaintiffs. A new policy has been redrafted and will be issued early in the next quarter.

1. When restraints are used as set forth in VI (c) (2), (3), and/or (4), the youth shall be continuously monitored and his condition noted in the logbook. Clinical staff shall be contacted and visit with the child as soon as possible.

Finding: Compliance.

Sections VI (c) (2), (3), and (4), involve the use of restraints when a youth is confined to his/her room because s/he is deemed to be out of control. As noted above, youth are rarely restrained once they have been confined to their rooms. In situations where a child is restrained and confined, he would normally be sent to Unit 10A.

VII. ENVIRONMENTAL HEALTH

A. Defendants shall comply with the requirements in Section VII no later than August 1, 1988.

1. Within two weeks from the signing of this Decree by the parties, the defendants shall provide to plaintiffs a reasonable schedule with specific timetables for compliance with each of the requirements set forth in Section VII. The schedule will place first priority on matters of life safety and other issues critical to life, health or safety. If plaintiffs object to the schedule as a whole, or any portion thereof, that shall be considered a substantial dispute.

2. With regard to direct access to toilets, defendants within two weeks of the signing of this Decree by the parties shall develop policies and procedures to provide that:

(a) *Staff may not penalize a youth who seeks access to the bathroom;*

(b) *Staff will respond promptly when a youth seeks access to the bathroom;*

Order I, Paragraph 95, March 31, 2001.

Finding: Compliance.

YSA expressly prohibits denial of bathroom access. Rules For Handling Youth Conduct, page 5, (bathroom access not to be used as punishment.)

(c) *Defendants will discipline any staff member who unreasonably interferes with a youth's access to the bathroom.*

Finding: Compliance (43rd Report).

There is no question that the current YSA administration would discipline staff found to interfere unreasonably with a youth's access to the bathroom.

B. *Oak Hill, Oak Hill Annex and the Receiving Home shall comply with the following sections of the American Public Health Association's Standards for Correctional Institutions (1986 ed.), section on Environmental Health: food (4), housekeeping (5), laundry (6), solid waste collection and handling (9), and vermin control (10). With respect to the food section, defendants may comply with appropriate federal regulations or local regulations, which may include 23 DCMR.*

Order I, Paragraph 94, February 28, 2001, deficiencies cited in the DOH report must be resolved within the next four weeks. Finding: Compliance. (44th Report)

Order I, Paragraph 96, March 31, 2001.

Finding: Compliance.

A comprehensive daily and weekly inspection report is required from each unit. Having inherited a crumbling physical plant, the current administration has been confronted with chronic problems with heating in the winter, cooling in warm weather and plumbing all of the time. YSA has addressed major mechanical deficiencies. Cleanliness on the units has improved.

YSA prepared a "Preventive Maintenance Program" which was distributed at the end of June. The Plan covers routine and emergency maintenance routines and provides detailed procedures and checklists for Oak Hill including carpentry, plumbing, electrical, and painting.

C. *Oak Hill, Oak Hill Annex and the Receiving Home shall comply with the following sections of the American Correctional Association Standards for Juvenile Training Schools (1983 ed.): 2-9157 through 2-9160, 2-9162, 2-9164 through 2-9170, and 2-9172.*

Order I, Paragraph 102, March 31, 2001.

Finding: Partial Compliance.

ACA Standards 2-9157 through 2-9160 outline fire safety policy and procedures, including written procedures, and specifications for marking exits, using inflammable furnishings, and separate refuse containers for "smoking materials." YSA conforms to ACA Standard 2-9161, which requires an independent inspector to review compliance with safety codes. The D.C Fire Department completed its inspection of Oak Hill on or about June 1, 2001. Defendants' Response p. 16. The Monitor has requested copies of the Fire Inspector's Reports, but has not received any.¹⁴ The Department of Health inspects Oak Hill on a quarterly basis. Although YSA does not allow smoking on campus, evidence of smoking continues.

YSA is in compliance with ACA Standard 2-9162 which requires buildings to have exits which are distinctly marked; YSA is not in compliance with ACA Standard 2-9164, which requires written procedures for releasing juveniles from locked areas in case of emergency. Until recently, Oak Hill had one policy, No. 110-118, which included both fire and bomb threat procedures. At the end of June, the Monitor received copies of newly revised fire and safety procedures, Oak Hill Fire Plan, Policy No. 110-118, and a new draft "Bomb Threat Plan" which has become a separate plan but retains the same Policy No. 110-118. YSA was advised of this oversight and will correct the problem.¹⁵

ACA Standards 2-9165 through 2-9170 require written procedures for control and use of flammable, toxic and caustic materials and require training personnel in emergency plans and procedures. No campus wide emergency training has been provided to all staff. Procedures for routine testing of power generators are included in the newly revised Preventive Maintenance Plan (Electrical Section, II A) which would cover requirements for access to alternative power sources. YSA is reviewing the written policies and procedures for communications in emergency situations within the facility, and complies with policies and safety procedures for

¹⁴ Corporation Counsel reported to the Monitor that the last fire inspection reported 5 minor violations: 3 surge protectors needed to be bolted in place and 2 extension cords needed to be removed. YSA has requested to be placed on the Department's list for annual inspections. Defendants' Response, p. 17.

¹⁵The concern evident from a review of the two new documents is that the newly drafted Fire Plan does not include written procedures for evacuation. The Assistant Corporation Counsel representing Defendants advised the Monitor that the "evacuation routes" distributed to the Monitor in March (p. 9, Fire and Bomb Plan Policy no. 110-118) are being reviewed by the D.C. Fire Inspector. It is not clear that the Fire Inspector has received the recently revised plans so his review would assume the Evacuation Plan was still included in the Fire Plan. Under these circumstances, staff cannot have been trained for fire drills using an evacuation plan using a written evacuation plan during recent fire drills under the newly revised Fire Plan. Incident Reports describing the fire on Unit 10A in February indicated that staff did not follow an evacuation plan during that emergency.

facility vehicles under ACA Standard 2-9172.

D. Plumbing

1. Water, soil, and waste drain lines and fixtures must be constructed of acceptable materials and installed in conformance with locally applicable codes. Hot and cold water supplies must be adequate in quantity and pressure. All fixtures must be kept clean. Approved backflow prevention devices must be provided where needed. There must be no cross-connections to nonpotable lines. All plumbing, including fixtures and connections, must be maintained in good working order, and the water temperature range for showers and handwashing shall be 105-120 °F.

Order I, Paragraph 97, September 30, 2001.

Finding: Compliance

YSA has addressed all issues related to this provision and has instituted weekly inspections to maintain compliance—which is a challenge given the age of the facility.

E. Facilities

1. There shall be one juvenile per sleeping room which shall have a minimum of 70 square feet of floor space; and juveniles shall be provided opportunity for activities outside the room at least 14 hours per day, except those children who are being disciplined or who are ill. This paragraph is controlled by I (D), (F), and (G).

Order I, Paragraph 98, June 30, 2001.

Finding: Partial Compliance.

Full compliance with respect to one juvenile per room at Oak Hill. Rooms in Spruce Cottage (Unit 6) have two and sometimes three beds in a room. The rooms are large enough to accommodate youth comfortably. In the last 6 months, women needing protective custody shared a room which is located on a separate corridor from the other rooms.

Unscheduled lockdowns continue on a number of the units in non-conformance with the published schedules.

2. Each youth shall have, at a minimum, access to:

(a) Toilet facilities available for use without staff assistance 24 hours a day or through an electrical system by which a child may unlock the door to his/her room by pushing a button in his/her room to allow him/herself out and thereby lock the remaining doors on the unit until the youth is safely back in his/her room;

Order I, Paragraph 32, May 31 (*Parties are to discuss ways to reach desired goal of this provision*).

Finding: No Finding.

(b) *A wash basin with hot and cold running water.*

Order I, Paragraph 33, no date at this time. (*Parties to discuss and derive a plan to address this provision by May 31, 2001*).

Finding: No Finding.

(c) *Artificial light of 30 foot candles at 30 inches from the floor in each room, controlled by the youth.*

Order I, Paragraph 33, no date at this time. (*Parties to submit a proposed plan by May 31, 2001. Parties plan to discuss this issue.*)

Finding: No Finding.

(d) *In each room, a bed, desk, storage space for clothes, a chair or stool; natural light; and*

Order I, Paragraph 100, June 30, 2001.

Finding: Compliance.

(e) *Temperatures shall be kept within comfort zones, between 66 and 80 degrees F in the summer and 61-73 degrees F in the winter.*

Order I, Paragraph 101, June 30, to extent practicable.

Finding: Compliance.

(f) *The door to each youth's room shall contain a window.*

Finding: Compliance.

3. *Ventilation shall be available in the event of a power failure.*

Finding: Compliance.

4. *There shall be documentation by a qualified source that the interior finishing material in juvenile living areas, exit areas and places of public assembly are in accordance with applicable District Fire Safety Codes.*

Finding: Compliance.

Corporation Counsel reports that the D.C. Fire Inspector has not cited any problems with documentation as of June 2001.

5. *If new facilities are built, they shall comply with applicable or superceding ACA Standards for Juvenile Training Schools (physical plant section).*

Finding: Compliance.

F. Fire Safety

1. *There shall be documentation by a D.C. agency independent of DHS which is qualified with the applicable fire safety codes to ensure compliance.*

Order I, Paragraph 102, March 31, 2001.

Finding: Compliance.

In the aftermath of the fire incident on Unit 10A in February, YSA managers discovered that Oak Hill had not had a fire inspection in two years. Since then, the Fire Inspector has inspected Oak Hill on a monthly basis, the last on June 1. Floor plans of Oak Hill and an evacuation plan have been filed with the DC Fire and Emergency Medical Services Department. See March 14, 2001 letter to YSA from Fire Inspection Officer. No Reports from the Fire Inspector have been made available to the Monitor. The Oak Hill Policy and Procedure for Fire Safety was last updated in June 2001.

2. *Written policy and procedure shall be implemented for a qualified representative of D.C.R.A. or of the D.C. Fire Department to routinely inspect the facilities for compliance with safety and fire prevention standards, and for a review of this policy and procedure annually; there shall be a weekly fire and safety inspection of the institution by a qualified designated staff member.*

Finding: Compliance.

Compliance as to written policy and procedures. See Fire Plan, Policy No. 110-118, Sections, 2,3,and 4. YSA is to draft a check list for staff to conduct weekly fire and safety inspections.

3. *A D.C. Government agency independent of YSA shall verify, by utilizing a qualified inspector who is trained in the application of DC. Fire Safety Codes, that the travel distances to all exits are in compliance with code requirements.*

Finding: Compliance.

4. *The facility shall have and shall implement a written evacuation plan for events such as fires or other major emergencies. This plan shall be approved by a D.C. Government agency independent of YSA, by utilizing an inspector trained in the application of D.C. Fire Safety Codes. The plan shall be reviewed annually, updated if necessary, and reissued. The plan shall include the following:*

- a) location of building/room floor plans;*
- b) use of exit signs and directional arrows for traffic flow;*
- c) location of publicly posted plan;*
- d) at least quarterly drills on all shifts in all institution locations; drills do not require children to be released from their respective units.*

Order I, Paragraph 103, Immediate.

Finding: Compliance.

Periodic drills are being conducted and exit signs are identified on units. Building location and floor plans will be filed at a central location and an evacuation plan was redrafted and will be reviewed by the appropriate agencies.

5. *An automobile or similar motor vehicle shall be available for use in emergencies.*

Finding: Compliance.

6. *The adequacy of fire exits at the facilities will be subject to an inspection by D.C. Fire Department officials, the findings of which will be provided to the monitor. If there is a dispute with regard to the adequacy of fire exits, the provisions of VII (A) (1) above will apply to this paragraph. As to the issue of the adequacy of fire exits, the parties may assert whatever standards they believe are appropriate.*

Finding: Compliance.

7. *The use of polyurethane mattresses, and polyurethane upholstered furniture is prohibited; furniture and mattresses must be constructed of fire retardant treated cotton, neoprene foam, or equivalent, and properly encased.*

Finding: Compliance (43rd Report).

G. *Defendants shall, within three years from the date of the signing of this decree by the parties, implement their Receiving Home plan involving redesigning of the facilities there. This deadline is subject to extension upon notification to plaintiffs if there is an unavoidable delay.*

Finding: Not applicable.

H. Defendants shall develop and implement a detailed maintenance plan and a detailed housekeeping plan, including the titles of people who, on a daily basis, are to perform each function.

Order I, Paragraph 34, March 31, 2001.

Finding: Compliance.

YSA's detailed maintenance and housekeeping plan conforms to the requirements of this provision. See Preventive Maintenance Program (updated June 2001). YSA hires full time cleaning staff to care for the administrative offices facility. Since Order I, checklists for daily and weekly housekeeping were developed for use on cottage units. Staff and youth are now responsible for housekeeping chores on their units. Weekly inspections are mandated.

VIII. MEDICAL SERVICES

A. As of March 1, 1987, defendants shall comply with the American Public Health Association's Standards for Correctional Institutions (1986 ed.), except for those pertaining to environmental health, and except that consent from parents, guardians and/or the court, will be sought if required by law.

Order I, Paragraph 104, no date at this time. (Parties are to discuss and submit a plan by May 31, 2001). Paragraph 105, March 31, 2001, (as to standards).

Finding: Compliance with Paragraph 105.

Parties have not yet had an opportunity to discuss a plan for submission to the Court.

B. In addition:

1. There shall be 24 hour medical coverage by either a physician or a physician's assistant at each facility.

Finding: Compliance (43rd Report).

2. As of January 1, 1987, there shall be one full-time medical officer for all three facilities, and that person shall be a fully qualified, and licensed physician who shall be in charge of coordinating all medical, and psychiatric services at each of the three YSA facilities.

Finding: Compliance (43rd Report).

3. As of January 1, 1987, there shall be one full-time medical records clerk for all three facilities whose responsibility it will be to keep all charts and medical records in adequate

order and easily accessible.

Finding: Compliance (43rd Report).

4. Physician's Assistants or physicians will perform medical screenings, except that other appropriate medical personnel may perform screenings under the direction of a physician.

Finding: Compliance (43rd Report).

Physician's Assistants (PA) perform the medical screening, unless the PA requests the physician's assistance.

5. Sick Call

Sign up Sheets: In all three facilities, either a physician's assistant will make daily sick call rounds on the units and/or sick call lists will be posted openly so that all residents have free access to them. If sick call lists are used, they will be collected each day by the medical personnel on duty. If a child is not brought to the medical office for sick call, the medical staff will initiate a follow up procedure to determine the reason for the child's absence.

Order I, Paragraph 106, March 31, 2001.

Finding: Partial Compliance.

YSA requires Sick Call forms to be posted openly in housing units. Direct observation indicates that sick call forms are not always posted. In practice, residents request visits to the Medical Unit for sick call and cottage staff make the arrangements. Medical personnel retrieve sick call lists every morning. Medical staff has improved its follow up procedure if a child does not arrive for sick call.

6. Residents will not be shackled together while awaiting their medical appointments in the waiting room, nor will any patients be examined or treated while shackled to anyone else. Privacy and confidentiality of the medical encounter will be respected.

Order I, Paragraph 107, March 31, 2001.

Finding: Compliance. (44th Report).

Shackles are not used on youth waiting for a medical appointment. Privacy and confidentiality are respected. The physical structure of the medical unit with the examination/interview room located in the middle of the three room unit between the Doctor's office and nurses' office does not guarantee privacy during conversations with PAs or physical examinations.

7. *As of September 1, 1986, work-up, assessment, management, and follow-up plans for patients who are treated at sick call shall be regularly reviewed by a physician at all three institutions.*

Finding: Compliance (43rd Report).

8. *As of November 1, 1986, laboratory equipment useful for making diagnoses will be provided, including, but not limited to, microscopes with stains, centrifuges for hematocrit, and centrifuges for urine.*

Finding: Compliance (43rd Report).

In practice, blood tests requiring microscopes are sent to an outside laboratory for syphilis, gonorrhea, and hepatitis B. Centrifuges are use for hematocrit.

9. *Injuries and Accidents: Any resident who may be injured (e.g. a child involved in a fight or a fall), regardless of whether the child claims injury or the staff believe the child to be injured, shall be examined by a member of the medical staff. This includes, but is not limited to, every child who is in a fight, however minor, and every child against whom force is used, regardless of the amount of force used.*

Finding: Compliance (43rd Report).

Since August 1999, YSA has made concerted efforts to assure that YCOs conform to this provision.

10. *As of November 1, 1986, adequate supplies shall be available at all times.*

Finding: Compliance (43rd Report).

11. *As of November 1, 1986, the three institutions shall have coordinated pharmacy services and no resident shall be permitted to bring with him/her or use any medications brought from outside the institutions. Rather, based on a medical assessment, diagnosis, and treatment plan performed by appropriate institutional medical personnel, appropriate medications shall be used.*

Finding: Compliance (43rd Report).

12. As of November 1, 1986, there shall be an institutional formulary.

Finding: Compliance (43rd Report).

IX. VISITING, PHONE CALLS ATTORNEY ACCESS, AND HOME VISITS

A. As meaningful contact with one's family is an integral component of any process of rehabilitation, transportation shall be provided to and from Oak Hill for visitors. Transportation for visitors of committed youth shall begin on March 1, 1987. Visitors of committed youth at Oak Hill and Oak Hill Annex shall pay a nominal fee for this transportation. Visits for each youth at Oak Hill and Oak Hill Annex shall be allowed at Oak Hill for two hours each day on Saturdays and Sundays, no later than September 1, 1986.

Order I, Paragraph 108, March 31, 2001.

Finding: Partial Compliance.

Visiting days are on Sunday (12:30 to 2:30 pm) and Wednesday (6:00 to 8:00 pm). In May, YSA announced plans to change visiting days back to Saturday and Sunday as soon as practicable. No change had taken place as of the end of the quarter. There is a 3 person limit for visitors. Transportation from the Minnesota Avenue Metro Rail Station to Oak Hill is provided free of charge.

B. Recognizing the special needs of children confined at the Receiving Home as presently used, they shall be permitted visits of two hours per visit on each of three weekday nights and on Saturdays and Sunday afternoons, no later than September 1, 1986.

Finding: Not applicable.

C. *As of March 1, 1987, children are entitled to two telephone calls per week of ten minutes each. In the event of a major or minor rule infraction under the disciplinary rules, one of those two calls may be withheld. Telephones will be located on each living unit, except at the Receiving Home where there will be two phones. Telephone calls beyond the metropolitan D.C. area shall be collect calls. Phone calls may be placed by staff.*

Finding: Compliance .

On June 29, 2001, YSA issued a revised policy and procedure (YSA Policy 18.2) for telephone access.

D. *A youth may receive visits from and make telephone calls to his/her parents, guardians, primary caretakers, siblings, children, co-parents of offspring, and, as approved by the child's ISP team others. The effective dates of this paragraph are governed by ¶A-C, above.*

Finding: Compliance (43rd Report).

E. *Every resident shall have routine access to his or her attorney during waking hours (7:00 a.m. to 9:00 p.m.) seven days per week. This includes both visits and effective March 1, 1987, phone calls between attorney and youth. If an emergency arises, there shall be no restriction on an attorney's visitation to a youth or on telephone communication between attorney and youth.*

Finding: Partial Compliance.

Direct observation indicates that youth are generally on their own in trying to reach their attorneys. On June 29, 2001 YSA issued a revised policy to address procedures to assure attorney access, YSA 5.1 The Resident Handbook, January 2001 (page 19) states that youth who need help in locating their attorney or preparing for a disciplinary hearing may have help from a lawyer or law clerk from the Public Defender Service Juvenile Services Program. "A JSP attorney/law clerk... may be reached every workday." See also, letter dated January 15, 1987, to Ms Marjorie Hall-Ellis, Commissioner of Social Services, Department of Human Services, from Cheryl M. Long, Director, Public Defender Service (outlining responsibilities of JSP attorneys).

F. *Subject to applicable court orders home visits shall be allowed after 45 days of confinement, or sooner if specified by the youth's ISP.*

Finding: Compliance (43rd Report).

X. STUDENT HANDBOOKS: RIGHTS OF STUDENTS, RULES OF CONDUCT, SANCTIONS

As of November 1, 1986, a student handbook or handbooks shall be prepared advising students of their rights and of the rules of conduct applicable to YSA facilities. To the maximum practicable extent a uniform set of rules applicable to all YSA facilities, will be prepared within four months of the signing of this Decree. Upon intake each student will receive his or her own personal copy of the handbook setting forth the institution's policies and procedures, the rights of students, the rules of conduct, and the sanctions for misbehavior. The rules will include a ranking of behaviors and sanctions for misbehavior so that all persons within the facility understand what behavior is prohibited and what penalties may be applied to violations. In addition to each child's personal copy, extra copies of these handbooks shall be kept readily available for students and staff within each building at each facility.

Order I, Paragraph 109, March 31, 2001.

Finding: Compliance.

Respectfully submitted,



Michael K. Lewis, Monitor



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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Monitor's 45th Report, for the period April 1, 2001 through June 30, 2001, was hand-delivered or mailed by first-class mail, postage pre-paid, this 15th day of August, 2001, to:

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